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in propria persona  
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**FILED**

AUG 26 2024

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY [Signature]  
DEPUTY CLERK

**United States District Court for the Eastern District of California  
Sacramento, California**

Paul-Edward: Gilbert,  
Plaintiff,

v.

Clear Recon Corp;  
Tammy Laird, Chief Executive Officer, and  
Edward Jamir, Chief Financial Officer, and  
Hamsa Uchi, Corporate Secretary, and  
Monica Chavez, Agent; in their capacity as officers  
and agents of Clear Recon Corp and in their  
personal capacity;  
Aldridge Pite, LLP;  
Steven Pite Esq., in his capacity as Senior Partner  
in Aldridge Pite. LLP;  
Casper Rankin, Esq., in his capacity as Supervising  
Partner in Aldridge Pite. LLP;  
Casper Rankin, Esq., in his capacity as Registered  
Agent for Clear Recon Corp.;  
Casper Rankin, Esq., in his personal capacity;  
NewRez LLC;  
Baron Silverstein, in his capacity as President of  
NewRez LLC;  
Shellpoint Mortgage Servicing, a subsidiary of  
NewRez LLC;  
Does 1 – 25,  
Defendants,

And

Citibank, N. A.  
Party of Interest,  
but not a Defendant

Case No. **2:24-CV-2308-DAD** CKDPS

**Constitutional Trespass**

**And**

**Causes of Action 1 through 6;  
Violation of the Seventh  
Amendment - Right to Trial by Jury;  
Breach of Duty by Trustee;  
Negligence / Gross Negligence;  
Violation of Due Process Rights;  
Constructive Fraud; and Unjust  
Enrichment.**

Judge:

Courtroom:

Date:

Time:

## **I. Introduction**

### **1. Overview of the Case**

This case arises from a series of unlawful actions taken by the Defendants, resulting in the wrongful foreclosure of the Plaintiff's property. The Plaintiff asserts that these actions violated constitutional rights, breached fiduciary duties, and disregarded established legal procedures. The foreclosure was based on a void assignment, and the Defendants failed to provide due process or act within the bounds of the law. This document outlines the claims and legal arguments that support the Plaintiff's demand for justice and appropriate remedies.

### **2. Purpose of the Document**

The purpose of this document is to present the Plaintiff's legal arguments, supported by constitutional provisions, statutory laws, and judicial precedents. The Plaintiff seeks to establish that the Defendants' actions were unlawful, warranting the relief sought in this case. The document also serves to request a trial by jury, as guaranteed by the Seventh Amendment, and to ensure that all factual disputes are resolved fairly and justly.

### **3. Legal Framework**

The legal framework of this case is grounded in the Constitution of the United States, relevant state laws, and well-established judicial precedents. The Plaintiff will demonstrate how the Defendants' actions violated these legal principles, focusing on the Seventh Amendment right to a trial by jury, breaches of fiduciary duty, wrongful foreclosure, and the unlawful authority exercised by the Defendants. The document is structured to guide the Court through the relevant legal issues, leading to a fair and just adjudication.

## **II. Parties Involved**

### **1. Plaintiff**

Paul-Edward: Gilbert, Plaintiff  
v.  
Clear Recon et. al., Defendant

Case No.

Page **2** of **18**

Constitutional Trespass

1 The Plaintiff is Paul-Edward: Gilbert, an individual and the rightful owner of the property  
2 located in unincorporated, Nevada County, California, which is at the center of this dispute. The  
3 Plaintiff brings this action to seek redress for the unlawful actions taken by the Defendants, which  
4 resulted in the wrongful foreclosure of the Plaintiff's property.

## 5 **2. Defendants**

### 6 **1. Clear Recon Corp**

- 7 ○ **Entity Description: Clear Recon Corp** is the trustee involved in the foreclosure  
8 process. As a fiduciary, Clear Recon Corp was responsible for ensuring that the  
9 foreclosure was conducted lawfully and with due regard for the Plaintiff's rights.

- 10 ○ **Officers:**

- 11 ▪ **Tammy Laird, Chief Executive Officer**
- 12 ▪ **Edward Jamir, Chief Financial Officer**
- 13 ▪ **Hamsa Uchi, Corporate Secretary**
- 14 ▪ **Monica Chavez, Foreclosure Agent**

### 15 **2. NewRez LLC (Shellpoint Mortgage Servicing)**

- 16 ○ **Entity Description: NewRez LLC**, also known as Shellpoint Mortgage Servicing,  
17 is the mortgage servicer for the Plaintiff's loan. The Plaintiff contends that NewRez  
18 LLC acted improperly by enforcing a foreclosure based on a void assignment and  
19 failed to provide due process.

- 20 ○ **Officer:**

- 21 ▪ **Baron Silverstein, President**

### 22 **3. Aldridge Pite, LLP**

- 23 • **Steven Pite, Esq.:**

24 Steven Pite is a Senior Partner at Aldridge Pite, LLP, with a significant role in the operations

of both Aldridge Pite and Clear Recon Corp. As one of the key figures at Aldridge Pite, his involvement and influence extend to Clear Recon Corp, where he played a foundational role as the incorporator of the entity. The Plaintiff asserts that Mr. Pite's dual involvement with Aldridge Pite and Clear Recon raises concerns about conflicts of interest and the proper execution of legal duties in the foreclosure process.

- **Casper Rankin, Esq.:**

Casper Rankin is the Supervising Partner at Aldridge Pite, LLP, and served as the Registered Agent for Clear Recon Corp. In his capacity as both a Supervising Partner and Registered Agent, Mr. Rankin had the legal responsibility of ensuring that all legal requirements and ethical standards were met before proceeding with the foreclosure. The Plaintiff asserts that Mr. Rankin failed to uphold this duty, particularly in addressing the constitutional protest and ensuring the foreclosure process adhered to California Civil Code §§ 6 and 2920 et seq. His actions, or lack thereof, contributed to the unlawful and unjust foreclosure, violating the Plaintiff's rights and leading to the harm claimed in this action.

**Does 1 - 25.**

- Unidentified parties who may have an involvement in the Constitutional Trespass.

**3. Interested Party**

**1. Citibank, N.A.**

- Citibank, N.A. is listed as an interested party in this case. Although not a Defendant, Citibank, N.A. has a financial interest in the property subject to the wrongful foreclosure. As such, Citibank, N.A. may be entitled to restitution in the event that the Plaintiff prevails, ensuring that any financial losses suffered by Citibank, N.A. are addressed appropriately.

**III. Jurisdiction and Venue**

## **1. Federal Jurisdiction**

This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331, as the claims arise under the Constitution and laws of the United States, specifically involving violations of the Fifth and Seventh Amendments. The Plaintiff's right to a trial by jury under the Seventh Amendment, as well as the due process protections under the Fifth Amendment, are central to the claims presented. Additionally, federal jurisdiction is supported by the diversity of citizenship between the Plaintiff and the Defendants, as outlined under 28 U.S.C. § 1332, given that the parties are from different states and the amount in controversy exceeds the statutory threshold of \$75,000. Specifically, the amount of the mortgage at issue exceeds this threshold.

## **2. State Jurisdiction**

In the alternative, this Court has jurisdiction under the laws of the State of California, as the claims involve violations of the California Constitution and the California Civil Code, particularly regarding wrongful foreclosure and breaches of fiduciary duty. The Plaintiff asserts that the Defendants' actions violated both federal and state laws, making state jurisdiction appropriate.

## **3. Venue Justification**

Venue is proper in this District under 28 U.S.C. § 1391(b) because the events giving rise to the claims occurred within this judicial district. The property that is the subject of the wrongful foreclosure is located within this district, and the Defendants are subject to personal jurisdiction here, either by conducting business or through other sufficient contacts within the state.

# **IV. Statement of Facts**

## **1. Background:**

### **• Ownership and Mortgage Origin:**

- The Plaintiff, Paul-Edward: Gilbert, has owned the property located in unincorporated Nevada County, California, since March 1985. In 2006, the Plaintiff

obtained a mortgage on the property, originally issued by Ditech. Following Ditech's bankruptcy, the mortgage was assigned to NewRez LLC by the U.S. Bankruptcy Court. The Plaintiff does not contest this assignment. However, the Plaintiff asserts that the Deed of Trust, securing this mortgage, has been wrongfully enforced by the Defendants, leading to the current dispute.

- **Loan Modification and Issues:**

o In early 2020, amid the COVID-19 pandemic, the Plaintiff entered into a loan modification process with Loancare LLC to address financial difficulties. During this process, on **August 21, 2023**, the Plaintiff requested that Brian S. Thomley, the attorney representing Loancare LLC, produce his license and oath of office as required under California law. The failure to receive a satisfactory response led the Plaintiff to conclude that fraudulent misrepresentation occurred. As a result, the Plaintiff rescinded the mortgage contract for fraud by sending a letter on **August 21, 2023**, to NewRez LLC. No response was received to this rescission. Subsequently, on **May 18, 2024**, the Plaintiff sent a Peremptory Notice to Cease and Desist to Clear Recon Corp, regarding T.S. 112726-CA detailing the constitutional violations and reaffirming the rescission due to fraud.

## V. Causes of Action

## Introduction:

The following section provides a summary of the legal claims asserted in this case. Each cause of action is briefly outlined, highlighting the core legal arguments and supporting facts. For a comprehensive and detailed analysis, including supporting evidence and citations, please refer to the **Materials in Support of Claim**, and the **Legal Citations and Authorities**, which accompany this filing.

1   **First Cause of Action: Violation of the Seventh Amendment - Right to Trial by Jury**

2       •   **Against:** All Defendants

3       •   **Summary:** The Plaintiff contends that the Defendants' actions egregiously violated the  
4       Plaintiff's Seventh Amendment right to a trial by jury, a fundamental protection in disputes  
5       involving significant property interests. The foreclosure statutes, as applied by the  
6       Defendants, unconstitutionally circumvented the Plaintiff's right to have these disputes—  
7       particularly those involving wrongful foreclosure, breach of fiduciary duty, and fraudulent  
8       actions—resolved by a jury of peers.

9       The Plaintiff asserts that any provisions in the Deed of Trust or Promissory Note that  
10      attempt to waive this constitutional right are inherently void and unenforceable. Unalienable  
11      rights, such as the right to a trial by jury, cannot be contracted away, and any language to that  
12      effect must be deemed null and void. This argument is bolstered by the principle established in  
13      *Bennett v. Boggs*, which holds that statutes violating common right and reason are null and void.

14      Moreover, *Hatch v. Collins* further illustrates the misapplication of trustee duties by the  
15      Defendants. In *Hatch*, the court clarified that while a trustee under a deed of trust acts as a  
16      common agent for both the trustor and the beneficiary, this role does not grant the trustee the  
17      power to bypass constitutional protections, such as the right to a trial by jury. The Defendants'  
18      failure to acknowledge or act upon the Plaintiff's Seventh Amendment rights, coupled with their  
19      execution of a non-judicial foreclosure, showcases a deliberate and unconstitutional overreach.

20      The Plaintiff demands that all factual disputes arising from this case be resolved by a jury,  
21      as enshrined in the Seventh Amendment and reinforced by California Civil Code § 6 and  
22      established case law. Given the significant financial and property interests at stake, the Plaintiff's  
23      right to a trial by jury must be upheld, rendering the foreclosure process, as executed by the  
24      Defendants, unconstitutional and void.

## Second Cause of Action: Breach of Duty by Trustee

- **Against:** Clear Recon Corp, its officers and agents
- **Summary:** The Defendants, particularly Clear Recon Corp (CRC) in its role as the trustee, violated their fiduciary and legal duties by failing to act impartially and fairly in the foreclosure process. As a trustee, CRC had an obligation to conduct the foreclosure in a manner that was both lawful and ethical, respecting the rights of all parties involved. However, CRC failed to meet these obligations, particularly in light of the Plaintiff's constitutional protest and the broader legal standards that govern trustee conduct.

CRC's obligations as a trustee include the duty to act impartially between the trustor (the Plaintiff) and the beneficiary (the lender), ensuring that the foreclosure process adheres to all legal requirements and that both parties' rights are protected. The *Hatch v. Collins* case underscores that while a trustee acts as a common agent for both the trustor and the beneficiary, this role does not absolve the trustee of its duty to conduct the sale "fairly, openly, reasonably, and with due diligence." CRC's actions, or lack thereof, in addressing the Plaintiff's constitutional protest, demonstrate a clear breach of this duty.

Additionally, CRC's status as a corporate entity complicates its role as a trustee. The fact that CRC is not a living person but a corporate entity raises concerns about its ability to fulfill the fiduciary duties that are traditionally expected of a trustee. This issue is further exacerbated by CRC's close ties with Aldridge Pite LLP, a law firm that shares key personnel with CRC, including senior partners who are directly involved in both entities. This relationship creates a conflict of interest that undermines CRC's ability to act impartially and fairly in the foreclosure process.

The failure to address the Plaintiff's constitutional protest, coupled with the pattern of non-compliance observed in CRC's actions, suggests a deliberate disregard for legal and ethical standards. This breach of duty by CRC not only violated the Plaintiff's rights but also calls into



1 question the validity of the foreclosure process as a whole. The Plaintiff contends that CRC's  
2 actions, influenced by its corporate structure and conflicted relationships, were not in keeping  
3 with the trustee's obligations and should be considered a significant breach of fiduciary duty.

#### 4 **Third Cause of Action: Negligence / Gross Negligence**

- 5 • **Against:** Clear Recon Corp, NewRez LLC, Shellpoint Mortgage Servicing, Casper Rankin,  
6 Esq., and Aldridge Pite, LLP
- 7 • **Summary:** The Defendants, particularly Clear Recon Corp, NewRez LLC, Shellpoint  
8 Mortgage Servicing, and Casper Rankin, Esq., along with his agents or assigns at Aldridge  
9 Pite, LLP, breached their duty of care by failing to conduct the foreclosure process with  
10 the necessary legal and ethical standards. The Defendants were obligated to ensure that  
11 the foreclosure was executed lawfully, with due regard for the Plaintiff's rights and the  
12 legal requirements set forth under California law.

13 Specifically, the Defendants ignored the Plaintiff's Rescission for Fraud, failed to comply  
14 with the protections afforded under California Civil Code §§ 6 and 4, and disregarded the  
15 constitutional protest outlined in the Plaintiff's Peremptory Notice. This series of failures  
16 demonstrates not only negligence but gross negligence, as the Defendants acted with reckless  
17 disregard for the legal and constitutional rights of the Plaintiff.

18 The breach of duty by the Defendants includes potential acts of malfeasance, misfeasance,  
19 and nonfeasance. Malfeasance refers to wrongful conduct that is illegal or dishonest; misfeasance  
20 refers to improper conduct within the scope of lawful authority; and nonfeasance refers to the  
21 failure to act when action is required. In this case, the Defendants' actions—or lack thereof—  
22 directly caused significant harm to the Plaintiff, including ongoing economic harm, damage to  
23 credit, and emotional distress.

1 The Plaintiff asserts that the Defendants, through their negligent actions and omissions,  
2 have caused irreparable harm. The court must recognize this negligence and gross negligence,  
3 as these actions represent a severe breach of duty. The Plaintiff seeks a remedy that addresses  
4 the violations and the resulting damages, ensuring that the Defendants are held accountable for  
5 their failure to adhere to legal and ethical standards during the foreclosure process.

#### 6 **Fourth Cause of Action: Violation of Due Process Rights**

- 7 • **Against:** Clear Recon Corp (CRC), Aldridge Pite, LLP, Casper Rankin, Esq.
- 8 • **Summary:** The Plaintiff contends that the Defendants, particularly Clear Recon Corp  
9 (CRC), Aldridge Pite LLP, and Casper Rankin, Esq., egregiously violated the Plaintiff's due  
10 process rights throughout the foreclosure process. Due process, as guaranteed by the  
11 Fifth and Fourteenth Amendments of the U.S. Constitution, requires that no person be  
12 deprived of life, liberty, or property without proper legal procedures, including adequate  
13 notice and a fair opportunity to be heard. In this case, the Defendants failed to adhere to  
14 these fundamental constitutional protections, resulting in an unlawful deprivation of the  
15 Plaintiff's property.

16 The Plaintiff's due process rights were violated in several critical ways:

- 17 1. **Void Assignment:** The foreclosure was initiated based on a void assignment,  
18 meaning that NewRez LLC and Clear Recon Corp lacked the legal standing to  
19 foreclose. Despite this, the Defendants proceeded with the foreclosure, ignoring  
20 the foundational requirement of legal authority, which is necessary to deprive  
21 someone of their property. This lack of legal standing is a direct violation of due  
22 process, as the foreclosure was not lawfully justified.
- 23 2. **Failure to Provide Proper Notice:** The Defendants failed to provide the Plaintiff  
24 with adequate notice of the foreclosure, which is a crucial element of due process.

1 The foreclosure process must include timely and clear communication, allowing  
2 the Plaintiff a fair opportunity to respond and defend their rights. The Defendants'  
3 failure to comply with these notice requirements further violated the Plaintiff's  
4 constitutional right to due process.

5 **3. Disregard for Constitutional Protest:** The Plaintiff's Peremptory Notice  
6 included a constitutional protest grounded in the Seventh Amendment and  
7 California Civil Code §§ 6 and 2920 et seq. This protest explicitly challenged the  
8 legality of the foreclosure and the Defendants' authority to proceed. The  
9 Defendants, however, chose to disregard this protest, proceeding with the  
10 foreclosure without addressing the Plaintiff's constitutional concerns. This  
11 disregard for a valid constitutional protest is a severe breach of due process.

12 **4. Violation of California Civil Code §§ 6 and 2920 et seq.:** The Defendants  
13 also violated specific statutory protections afforded by California law. California  
14 Civil Code § 6 preserves accrued rights, including the right to due process, in all  
15 legal actions. Similarly, California Civil Code § 2920 et seq. governs the foreclosure  
16 process and sets forth the requirements that must be met to ensure that  
17 foreclosures are conducted lawfully and fairly. The Defendants' actions, which  
18 included ignoring these statutory provisions, contributed to the unlawful  
19 deprivation of the Plaintiff's property.

20 The cumulative effect of these violations—initiating foreclosure based on a void  
21 assignment, failing to provide proper notice, and disregarding a constitutional protest—resulted  
22 in the unlawful deprivation of the Plaintiff's property without due process of law. The Plaintiff  
23 asserts that these actions were not only illegal but also unjust, warranting judicial intervention to  
24 remedy the violation of the Plaintiff's due process rights and to prevent further harm.

## **Fifth Cause of Action: Constructive Fraud**

- **Against:** Clear Recon Corp, NewRez LLC, Casper Rankin, Esq.
- **Summary:** The Plaintiff contends that the Defendants, particularly Casper Rankin, Esq., engaged in constructive fraud by failing to disclose critical information regarding the true nature of the assignment and their legal authority—or lack thereof—to proceed with the foreclosure. Constructive fraud occurs when a party, while not necessarily intending to deceive, breaches a legal or equitable duty in a way that results in harm to another party. In this case, the Defendants' actions and omissions created a misleading narrative that concealed the illegitimacy of the foreclosure, violating their fiduciary duties and causing significant harm to the Plaintiff.

Constructive fraud is typically identified in situations where a fiduciary relationship exists, and one party fails to act in the best interest of the other. The Defendants, especially Clear Recon Corp and Casper Rankin, Esq., had a fiduciary duty to the Plaintiff as part of their role in the foreclosure process. This duty required them to act with honesty, transparency, and fairness, ensuring that all material facts were disclosed to the Plaintiff.

However, the Defendants breached this duty in several key ways:

1. **Failure to Disclose the Void Assignment:** The Defendants did not disclose that the assignment on which the foreclosure was based was void. This omission misled the Plaintiff and allowed the Defendants to proceed with an unlawful foreclosure. The Plaintiff relied on the assumption that the Defendants had the legal authority to foreclose, not knowing that the assignment was invalid and that the Defendants were acting without proper legal standing.
2. **Misrepresentation of Authority:** By proceeding with the foreclosure, the Defendants, particularly Casper Rankin, Esq., implicitly represented that they had

1 the authority to do so. This representation was false and constituted constructive  
2 fraud, as the Defendants failed to disclose that their legal authority was  
3 questionable at best and non-existent at worst. This misrepresentation deprived  
4 the Plaintiff of the opportunity to challenge the foreclosure in a timely and effective  
5 manner.

- 6 3. **Breach of Fiduciary Duty:** As fiduciaries, the Defendants were obligated to act  
7 in the best interest of the Plaintiff, which included disclosing all material facts  
8 related to the foreclosure. Their failure to do so breached this duty and resulted  
9 in constructive fraud. The Plaintiff asserts that the Defendants' actions, while  
10 possibly not intentionally deceitful, were nonetheless fraudulent because they  
11 created a false impression that led to significant harm.

12 The Plaintiff argues that the foreclosure, which was based on misleading actions and  
13 omissions by the Defendants, is void due to the constructive fraud that occurred. The court must  
14 recognize this breach of fiduciary duty and provide a remedy to address the harm caused by the  
15 Defendants' fraudulent actions.

16 **Sixth Cause of Action: Unjust Enrichment**

- 17 • **Against:** NewRez LLC, Clear Recon Corp (CRC), Casper Rankin, Esq., and Aldridge Pite,  
18 LLP
- 19 • **Summary:** The Plaintiff asserts that NewRez LLC, Clear Recon Corp (CRC), Casper  
20 Rankin, Esq., and Aldridge Pite, LLP were unjustly enriched through the wrongful  
21 foreclosure of the Plaintiff's property. Unjust enrichment occurs when one party benefits  
22 at the expense of another under circumstances where it would be inequitable for them to  
23 retain that benefit. In this case, the Defendants received financial gains from the

1 foreclosure process, which was executed without proper legal authority, based on a void  
2 assignment, and in violation of the Plaintiff's rights.

3 The Defendants' unjust enrichment is evident in several ways:

4 1. **NewRez LLC:** NewRez LLC received proceeds from the foreclosure despite the  
5 fact that the assignment on which the foreclosure was based was void. The funds  
6 received by NewRez LLC were obtained through a process that violated the  
7 Plaintiff's rights and failed to comply with legal standards. Retaining these funds  
8 is inequitable, as they were acquired through an unlawful and wrongful  
9 foreclosure.

10 2. **Clear Recon Corp (CRC):** CRC, as the trustee responsible for carrying out the  
11 foreclosure, was compensated for its services despite facilitating a foreclosure that  
12 was not legally justified. The payment CRC received for executing an invalid  
13 foreclosure constitutes unjust enrichment, as the foreclosure was conducted  
14 without proper authority and in disregard of the Plaintiff's rights.

15 3. **Casper Rankin, Esq. and Aldridge Pite, LLP:** Casper Rankin, Esq., and his  
16 firm, Aldridge Pite, LLP, were unjustly enriched by the legal fees and compensation  
17 they received for advising and facilitating the foreclosure. Rankin's failure to ensure  
18 that the foreclosure was legally valid, along with his refusal to provide his license  
19 upon lawful demand, contributed to the wrongful deprivation of the Plaintiff's  
20 property. The financial benefits obtained by Rankin and his firm from this unlawful  
21 foreclosure are inequitable and should be returned or compensated.

22 The Plaintiff contends that it would be unjust for the Defendants to retain the benefits  
23 gained through a foreclosure process that was marred by legal irregularities, misrepresentations,  
24 and violations of the Plaintiff's rights. The court must intervene to address this unjust enrichment,

ensuring that the Defendants are required to return the gains they wrongfully obtained or provide appropriate compensation to the Plaintiff.

## **VI. Relief Sought**

### **1. Compensatory Damages**

- **Relevant Causes of Action:**

- Breach of Duty by Trustee
- Negligence / Gross Negligence
- Constructive Fraud

- **Summary:** The Plaintiff seeks compensatory damages for the financial losses suffered due to the Defendants' unlawful actions, including the wrongful foreclosure of the Plaintiff's property and the damages resulting from the fraudulent conduct. These damages include the loss of the property, any reduction in property value, and other financial harm directly caused by the Defendants' breach of their legal duties and wrongful conduct. The Seventh Amendment right to a trial by jury should be invoked to ensure that any factual disputes regarding these damages are resolved by a jury, as this right is fundamental to the Plaintiff's pursuit of justice.

### **2. Punitive Damages**

- **Relevant Causes of Action:**

- Constructive Fraud
- Unjust Enrichment

- **Summary:** The Plaintiff seeks punitive damages to punish the Defendants for their willful, malicious, and fraudulent actions, particularly the constructive fraud and unjust enrichment. The Seventh Amendment guarantees that a jury should assess the extent of

1           these punitive damages to adequately deter the Defendants and others from engaging in  
2           similar unlawful conduct in the future.

### 3   **3. Injunctive Relief**

- 4       •   **Relevant Causes of Action:**

- 5           ○   Violation of Due Process Rights
- 6           ○   Breach of Duty by Trustee

- 7       •   **Summary:** The Plaintiff seeks injunctive relief to prevent the Defendants from continuing  
8           or repeating the unlawful foreclosure process and any related actions, including those  
9           related to the violation of due process and the breach of trustee duties. This includes an  
10          order to restore the Plaintiff's ownership of the property and to cease any further attempts  
11          to enforce the void assignment. The Seventh Amendment right to a trial by jury must be  
12          upheld in determining the legitimacy of the foreclosure actions and in ensuring that the  
13          Plaintiff's constitutional rights are protected throughout the legal process.

### 14   **4. Restitution**

- 15      •   **Relevant Causes of Action:**

- 16          ○   Unjust Enrichment
- 17          ○   Constructive Fraud

- 18      •   **Summary:** The Plaintiff seeks restitution for any benefits the Defendants unjustly  
19          received as a result of the wrongful foreclosure and the constructive fraud. This includes  
20          the return of any money or property that was wrongfully taken or retained by the  
21          Defendants, including damages and restitution to Citibank, N.A., as an interested party.  
22          The Plaintiff's right under the Seventh Amendment ensures that the jury determines the  
23          appropriate restitution, reinforcing the principle that these rights cannot be waived or  
24          bypassed.



## 5. Quiet Title

- **Relevant Causes of Action:**

- Declaratory Relief

- **Summary:** The Plaintiff seeks to quiet title to the property, removing any clouds or claims against the title held by the Defendants as a result of the void assignment and wrongful foreclosure. This relief will restore the Plaintiff's rightful ownership and clear the title of any unlawful encumbrances. A jury, as provided for by the Seventh Amendment, must decide on the validity of the claims against the property, ensuring that the Plaintiff's constitutional rights are fully protected.

## VII. Summary

The Plaintiff has meticulously detailed the unlawful actions of the Defendants, which led to the wrongful foreclosure of the Plaintiff's property. These actions, including breaches of fiduciary duty, violations of constitutional rights, and other significant legal infractions such as civil conspiracy and constructive fraud, have been thoroughly substantiated through legal analysis and supported by constitutional provisions, statutory laws, and judicial precedents. The Plaintiff's right to a trial by jury, guaranteed by the Seventh Amendment, and the fundamental principles of due process, have been central to this case.

## Final Reflection

In closing, the Plaintiff invokes the principle found in California Civil Code § 3548: "The law has been obeyed." This action is brought in the spirit of justice and the rule of law, with the expectation that this Court will uphold these principles and deliver a fair and just resolution. The Plaintiff's rights must be recognized and upheld, and the Defendants must be held accountable for their actions.

## VIII. Certification

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**Dated:** August 2, A.D 2024

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Case No.

**Mandatory Judicial Notice**

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Judge:

Courtroom:

Date:

Time:

Paul-Edward: Gilbert, Plaintiff

v.

Clear Recon et. al., Defendant

Case No.

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Mandatory Judicial Notice - Constitutional Trespass

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## I. Mandatory Judicial Notice

### 1. Request for Judicial Notice

Pursuant to Federal Rule of Evidence 201 and California Evidence Code §§ 451 and 452, the Plaintiff respectfully requires that this Court take judicial notice of the following facts, documents, and principles of law relevant to the claims presented in this case:

### 2. Constitutional Provisions:

- **Seventh Amendment to the Constitution of the United States:** The Plaintiff requires judicial notice of the Seventh Amendment, which guarantees the right to a trial by jury in civil cases over twenty Dollars.
- **Fifth Amendment to the Constitution of the United States:** The Plaintiff requires judicial notice of the Fifth Amendment, which provides that no person shall be deprived of life, liberty, or property without due process of law. This protection is fundamental to the Plaintiff's challenge against the legality of the foreclosure process initiated by the Defendants.
- **Ninth Amendment to the Constitution of the United States:** The Plaintiff requires judicial notice of the Ninth Amendment, which acknowledges that the enumeration of certain rights in the Constitution does not deny or disparage other rights retained by the people. The Plaintiff asserts that these additional, unenumerated rights are equally protected and must be recognized in the adjudication of this case.
- **Tenth Amendment to the Constitution of the United States:** The Plaintiff requires judicial notice of the Tenth Amendment, which reserves powers not delegated to the federal government to the states or the people. The Plaintiff asserts that state law

1       protections and individual rights are paramount in this matter and must be upheld by the  
2       Court.

- 3       • **California Constitution, Article I, Section 2:** The Plaintiff requires judicial notice of  
4       Article I, Section 2 of the California Constitution, which affirms that: All political power is  
5       inherent in the People. Government is instituted for the protection, security, and benefit  
6       of the People; and they have the right to alter or reform the same, whenever the public  
7       good may require it.”
- 8       • **California Constitution, Article I, Section 16:** The Plaintiff requires judicial notice of  
9       Article I, Section 16 of the California Constitution, which affirms that the right of trial by  
10      jury shall be secured to all and remain inviolate. The Plaintiff asserts this constitutional  
11      guarantee in the context of the foreclosure proceedings and the claims presented in this  
12      case.

### 13   **3. Statutory Law:**

- 14      • **California Civil Code § 2920 et. seq.:** The Plaintiff requires judicial notice of California  
15      Civil Code § 2920 et. seq., which governs mortgages and non-judicial foreclosure  
16      procedures and imposes specific fiduciary duties on trustees.
- 17      • **California Civil Code Section 6:** The Plaintiff requires judicial notice of California Civil  
18      Code § 6, which preserves accrued rights, ensuring that the foreclosure process respects  
19      constitutional protections.
- 20      • **California Civil Code § 4:** The Plaintiff requires judicial notice of California Civil Code §  
21      4, which mandates that all statutory laws are to be liberally construed to uphold  
22      constitutional rights and common law principles, providing a legal foundation for  
23      interpreting statutes in favor of protecting rights such as the right to a trial by jury.

### 24   **4. Maxims of Jurisprudence:**

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Mandatory Judicial Notice - Constitutional Trespass

- ***Lex semper dabit remedium***: The Plaintiff requires judicial notice of the principle that the law will always provide a remedy.
- ***Ignorantia facti excusat, ignorantia juris non excusat***: The Plaintiff requires judicial notice of the principle that ignorance of fact excuses, but ignorance of law does not.

#### 5. Relevant Case Law:

- **Bennett v. Boggs, 1 Baldw. 60**: Judicial Notice is requested of the principle established in this case, stating that "Statutes that violate the plain and obvious principles of common right and common reason are null and void." This principle supports the Plaintiff's argument that the statutes enabling non-judicial foreclosure to violate fundamental rights and are therefore unconstitutional.
- **Hatch v. Collins, 225 Cal.App.3d 1104 (1990)**: Judicial Notice is requested of the ruling in this case, which clarifies the duties of a trustee under a deed of trust. The court determined that a trustee is not a strict trustee but serves as a common agent for both the trustor and the beneficiary. The ruling emphasized that while a trustee has a duty to conduct the sale "fairly, openly, reasonably, and with due diligence," this duty is not fiduciary. The *Hatch* case is directly relevant to the Plaintiff's claim, as it delineates the limits of a trustee's authority and the absence of fiduciary duties, which impacts the evaluation of the trustee's conduct in the foreclosure at issue.
- **Federal Rights and Procedural Practices**: Judicial Notice is requested of the principle that "The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of practice." This principle further supports the Plaintiff's position that procedural norms cannot override substantive constitutional protections, such as the right to a trial by jury.

- 1 • **Haines v. Kerner**, 404 U.S. 519-521 (1972): The Plaintiff requires judicial notice that in  
2 this case, the Supreme Court held that non-attorney litigants are held to less stringent  
3 pleading standards than State BAR licensed attorneys. Non-attorney litigants are entitled  
4 to the opportunity to submit evidence in support of their claims, regardless of deficiencies  
5 in their pleadings.
- 6 • **Platsky v. CIA**, 953 F.2d 25 (2d Cir. 1991): The Plaintiff requires judicial notice of this  
7 case, where the court held that it is an error for the trial court to dismiss a non-attorney  
8 litigant's pleading without instructing how the pleadings are deficient and how they may  
9 be repaired.
- 10 • **Anastassoff v. United States**, 223 F.3d 898 (8th Cir. 2000): The Plaintiff requires  
11 judicial notice that in this case, the court held that non-attorney litigants' constitutionally  
12 protected rights are violated when courts depart from precedent where parties are  
13 similarly situated. All litigants have an equal right to have their claims fairly and impartially  
14 adjudicated according to the rule of precedent.

#### 15 **6. Notice Regarding Pro Per Litigants:**

- 16 • **Special Solicitude for Pro Per Litigants:** The Plaintiff requires judicial notice that  
17 courts must provide special solicitude to non-attorney litigants, recognizing the challenges  
18 faced by individuals who choose to represent themselves without legal counsel. This  
19 principle is distinct from the more commonly used term *pro se* and emphasizes the  
20 litigant's self-representation while maintaining their full rights as one of the People.
- 21 • **Fiduciary Responsibility of the Court:** The Plaintiff further requires judicial notice that  
22 the court has a fiduciary responsibility to all litigants, particularly those who are one of  
23 the People, ensuring that their rights are protected, and that justice is administered fairly

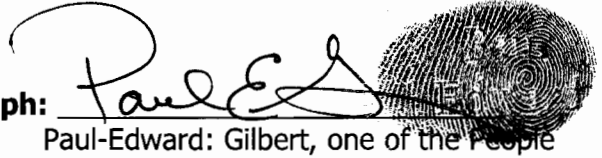
1 and impartially. This responsibility includes ensuring that the constitutional and legal rights  
2 of non-attorney litigants are fully respected and upheld throughout the legal process.

3 **Summary**

4 The Plaintiff respectfully requires that the Court take judicial notice of the above-  
5 referenced facts, documents, and legal principles, as they are central to the resolution of this  
6 case and are not reasonably subject to dispute.

7 **Dated:** August 2, A. D. 2024

8 **Autograph:**

  
Paul-Edward: Gilbert, one of the People



Paul-Edward: Gilbert, one of the People  
in propria persona  
c/o 2036 Nevada City Highway #28  
Grass Valley (45), California [near: 95945]  
[crc4e7b4732@sendittomyemail.com](mailto:crc4e7b4732@sendittomyemail.com)

United States District Court for the Eastern District of California  
Sacramento California

Paul-Edward: Gilbert,  
Plaintiff,

v.

Clear Recon Corp;  
Tammy Laird, Chief Executive Officer, and  
Edward Jamir, Chief Financial Officer, and  
Hamsa Uchi, Corporate Secretary, and  
Monica Chavez, Agent; in their capacity as officers  
and agents of Clear Recon Corp and in their  
personal capacity;  
Aldridge Pite, LLP;  
Steven Pite Esq., in his capacity as Senior Partner  
in Aldridge Pite. LLP;  
Casper Rankin, Esq., in his capacity as Supervising  
Partner in Aldridge Pite. LLP;  
Casper Rankin, Esq., in his capacity as Registered  
Agent for Clear Recon Corp.;  
Casper Rankin, Esq., in his personal capacity;  
NewRez LLC;  
Baron Silverstein, in his capacity as President of  
NewRez LLC;  
Shellpoint Mortgage Servicing, a subsidiary of  
NewRez LLC;  
Does 1 – 25,  
Defendants,

And

Citibank, N. A.  
Party of Interest,  
but not a Defendant

Case No.

**Materials in Support of Claim of  
Constitutional Trespass**

Judge:

Courtroom:

Date:

Time:

Paul-Edward: Gilbert, Plaintiff

v.

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Materials in Support of Claim of Constitutional Trespass

## **I. Introduction**

### **1. Purpose of the Materials in Support of Claim**

- The purpose of this document is to provide detailed factual and legal support for the claims made in the **Constitutional Trespass** document. This includes a comprehensive analysis of the actions taken by the Defendants, evidence that substantiates the claims, and citations to relevant legal authorities. These materials are intended to assist the Court in understanding the full scope of the claims, ensuring that all arguments are supported by credible evidence and legal precedent.

## **II. Causes of Action**

### **First Cause of Action: Violation of the Seventh Amendment - Right to Trial by Jury**

#### **Summary:**

The Defendants violated the Plaintiff's constitutional right to a trial by jury by proceeding with a non-judicial foreclosure, disregarding the protections afforded under the Seventh Amendment, the California Constitution, and California Civil Code §§ 4 and 6. This cause of action asserts that the foreclosure was unconstitutional and void due to the denial of this fundamental right. The Defendants' actions are not isolated incidents but part of a broader pattern and practice of systemic non-compliance, which further reinforces the argument that the statutes enabling such a process are null and void, as they violate common right and reason. The inclusion of the Strictures of the Statutes doctrine and the quasi-judicial role of the trustee further demonstrate that the foreclosure process lacked legal foundation and should be deemed invalid.

#### **Detailed Analysis:**

##### **1. Constitutional Basis:**

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- The Seventh Amendment to the U.S. Constitution guarantees the right to a trial by jury in civil cases where the value in controversy exceeds twenty dollars. This right is foundational, particularly in disputes involving significant property interests, such as the foreclosure of the Plaintiff's home. Article I, Section 2 of the California Constitution affirms that all political power is inherent in the People, including the right to due process and a fair trial.
- The Defendants' actions, including their reliance on statutes that bypass the Plaintiff's right to a trial by jury, constitute a direct violation of these constitutional protections. This behavior is consistent with a broader pattern and practice of ignoring constitutional mandates, underscoring the systemic nature of the Defendants' non-compliance. The fact that the Defendants did not respond to the stipulation agreement effectively concedes that no lawful method exists for the government or any entity to restrict or limit this fundamental right. This silence further supports the conclusion that the statutes enabling non-judicial foreclosure are unconstitutional and void.
- The quasi-judicial nature of the trustee's role and the Chevron Deference standard emphasize that trustees, when exercising powers that significantly affect property rights, must adhere strictly to constitutional protections. Courts should not defer to administrative practices that undermine these rights.

## **2. Trustee's Duty as a Common Agent:**

- As outlined in *Hatch v. Collins*, 225 Cal.App.3d 1104 (1990), "A trustee under a deed of trust has neither the powers nor the obligations of a strict trustee; rather, he serves as a kind of common agent for the trustor and the beneficiary."

1 This characterization of the trustee's role is critical in understanding the scope of  
2 their duties in the non-judicial foreclosure process.

- 3 ○ **Common Agent Responsibility:** The role of a "common agent" means that  
4 the trustee is bound to act impartially, ensuring that the rights of both the trustor  
5 (borrower) and the beneficiary (lender) are respected. This impartiality is crucial,  
6 particularly when a constitutional protest is raised by the trustor. In such cases,  
7 the trustee's duty as an agent requires them to:

- 8 ▪ **Acknowledge the Protest:** The trustee must formally recognize that a  
9 constitutional protest has been lodged by the trustor, as it directly  
10 impacts the legality of the foreclosure process.

- 11 ▪ **Inform the Beneficiary:** As a common agent, the trustee is duty-bound  
12 to inform the beneficiary of the protest, ensuring that the beneficiary is  
13 aware that their actions are being legally contested. The trustee cannot  
14 proceed with the sale without addressing the protest, as doing so would  
15 violate their obligation to act fairly and reasonably.

- 16 ▪ **Ensure Due Process:** The trustee must ensure that due process is  
17 followed before proceeding with the foreclosure. This includes verifying  
18 that the beneficiary responds appropriately to the protest and that any  
19 claims made by the trustor are legally addressed. The trustee's role as a  
20 neutral party prohibits them from arbitrarily selling the property without  
21 ensuring that the trustor's constitutional rights have been upheld.

- 22 ○ **Statutory Context:** Nowhere in Civil Code 2920 et seq. is the trustee granted  
23 the authority to bypass the protections afforded under Civil Code § 6. Civil Code  
24 § 6 preserves accrued rights, ensuring that no legal action, including foreclosure,

1 can infringe upon constitutional protections without due process. The trustee's  
2 duty as a common agent requires them to adhere to these statutory protections,  
3 and any deviation from this duty would constitute a breach of their obligations  
4 under the law.

5 **3. Statutory Protections:**

- 6 ○ California Civil Code § 6 preserves accrued rights, ensuring that any legal action,  
7 including foreclosure processes, must respect constitutional protections. This  
8 statute underscores that no contractual agreement, such as a Deed of Trust, can  
9 waive these fundamental rights.
- 10 ○ By failing to rebut the Plaintiff's assertions, the Defendants are estopped from  
11 contesting that California Civil Code § 6 invalidates any attempt to enforce a  
12 foreclosure that bypasses the Plaintiff's right to a trial by jury. This creates an  
13 irrefutable presumption that the foreclosure process, as applied, violated the  
14 Plaintiff's accrued rights.
- 15 ○ California Civil Code § 4, which mandates that all statutory interpretations be  
16 consistent with common law principles, inherently protects the right to a trial by  
17 jury. Civil Code § 6, in conjunction with Civil Code § 4, ensures a holistic  
18 protection of rights, making any statutory interpretation that infringes on these  
19 rights inherently flawed.

20 **4. Common Right and Reason:**

- 21 ○ Bennett v. Boggs, 1 Baldw. 60 establishes that "Statutes that violate the plain  
22 and obvious principles of common right and common reason are null and void."  
23 This principle is directly applicable to the non-judicial foreclosure process, which  
24 inherently violates the Plaintiff's common right to a trial by jury and due process.

- The Defendants' failure to respond constitutes an admission by conduct that the statutes governing the foreclosure process are unreasonable and infringe upon common rights. This pattern of behavior, which is part of a broader systemic practice of non-compliance, strengthens the argument that the statutes enabling non-judicial foreclosure are null and void under the principle established in *Bennett v. Boggs*.
- This argument is further supported by the "Strictures of the Statutes" doctrine, which asserts that any deviation from statutory requirements, particularly those that undermine constitutional rights, is void and indicative of a systemic failure to comply with legal norms.

#### **5. Deed of Trust & Contractual Agreements:**

- The Defendants might argue that the Deed of Trust or Promissory Note included provisions that limited or waived the Plaintiff's right to a trial by jury. However, it is well-established that unalienable rights, such as the right to a jury trial, cannot be waived through contractual agreements. Any language in these documents that attempts to force the Plaintiff to give up such rights is inherently invalid and unenforceable.
- The silence from the Defendants serves as an admission that no valid contractual waiver exists within the Deed of Trust or Promissory Note that would override the Plaintiff's constitutional right to a trial by jury. This strengthens the position that any such provisions are null and void.
- The maxim "*Jus publicum privatorum pactis mutari non potest*" (A public right cannot be changed by private agreement) reinforces that the Plaintiff's right to a trial by jury cannot be waived or overridden by any contractual agreement.

1       **6. Judicial Notice:**

- 2           ○ The Mandatory Judicial Notice emphasizes that constitutional rights, including
- 3           those under the Seventh Amendment and California Constitution, cannot be
- 4           contracted away or nullified by the language in a Deed of Trust or Promissory
- 5           Note. Additionally, California Civil Code § 6 must be recognized as ensuring that
- 6           these rights are preserved in all legal processes.
- 7           ○ The Defendants' non-response to the stipulation agreement and Notice of Default
- 8           should be interpreted as an admission of the validity of the Plaintiff's rights under
- 9           the Seventh Amendment and California Civil Code § 6. Judicial Notice should be
- 10          taken to confirm that these constitutional protections have been violated,
- 11          rendering the foreclosure process void.
- 12          ○ Judicial notice should also acknowledge the importance of common law principles
- 13          under Civil Code § 4, ensuring that statutory interpretations do not erode
- 14          fundamental rights. This broader interpretation is necessary to safeguard the
- 15          Plaintiff's rights.

16       **7. Legal Maxims:**

- 17          ○ The maxim "Lex semper dabit remedium" (The law will always provide a remedy)
- 18          supports the Plaintiff's entitlement to a remedy for the violation of constitutional
- 19          rights. Additionally, "Ignorantia facti excusat, ignorantia juris non excusat"
- 20          (Ignorance of fact excuses, but ignorance of law does not) reinforces that the
- 21          Defendants cannot claim ignorance of the constitutional protections afforded to
- 22          the Plaintiff.
- 23          ○ The maxim "Jus publicum privatorum pactis mutari non potest" (A public right
- 24          cannot be changed by private agreement) reinforces that the Plaintiff's right to a

trial by jury cannot be waived or overridden by any contractual agreement. Additionally, "In dubio pro libertate" (When in doubt, in favor of liberty) emphasizes that any ambiguity in interpreting the foreclosure process should be resolved in favor of preserving the Plaintiff's rights.

- The maxim "Factum non justum ad jus non valet" (An unlawful act cannot become lawful through continuance) argues that ongoing reliance on defective statutory interpretations cannot legitimize the foreclosure process.
- The Defendants' consistent disregard for these legal maxims is part of a broader pattern and practice of undermining constitutional protections. The Defendants' silence in the face of the stipulation agreement further cements their admission of these maxims. As they did not rebut the Plaintiff's points, they are presumed to agree that no valid legal or factual basis exists to deny the Plaintiff's rights under these maxims.

#### 8. Case Law Support:

- *Haines v. Kerner*, 404 U.S. 519 (1972): Emphasizes the protection of non-attorney litigants' constitutional rights and their entitlement to less stringent pleading standards. This is particularly relevant in asserting the Plaintiff's right to a trial by jury, as it underlines the need for courts to protect substantive rights over procedural technicalities.
- *Anastassoff v. United States*, 223 F.3d 898 (8th Cir. 2000): Reinforces the necessity for consistent application of constitutional protections and adherence to precedent. It supports the Plaintiff's position that the Defendants cannot use procedural norms to override the Plaintiff's constitutional rights.



- *Bennett v. Boggs*, 1 Baldw. 60: This case's principle that statutes violating common right and reason are null and void is directly applicable to the foreclosure process, asserting that the statutes enabling such a process are unconstitutional and should be struck down.
- The Defendants' failure to address the legal precedents cited in the stipulation agreement and Notice of Default further solidifies the Plaintiff's reliance on these cases. The lack of response is a tacit admission that these cases apply and support the Plaintiff's position that the foreclosure was conducted in violation of constitutional protections.

**9. Estoppel by Silence:**

- The Defendants' silence in response to the stipulation agreement and Notice of Default estops them from contesting the facts and legal conclusions laid out by the Plaintiff.
- By incorporating the principle of estoppel by silence, the Plaintiff can argue that the Defendants are now barred from introducing any new arguments or evidence that contradict the Plaintiff's assertions regarding the Seventh Amendment violation. This leaves the Plaintiff's position uncontested and legally supported.
- The principle of Estoppel by Silence highlights the Defendants' failure to meet their legal and fiduciary duties. This not only bars them from contesting the Plaintiff's claims but also underscores the broader implications of their silence, further supporting the Plaintiff's case.

**10. Admissions by Conduct:**

- The Defendants' non-response can be treated as an admission by conduct, affirming the Plaintiff's assertions.

- The Plaintiff can further strengthen the case by arguing that the Defendants' conduct (or lack thereof) constitutes an implicit admission of the Seventh Amendment violation. This reinforces the argument that the foreclosure process was unconstitutional and that the Defendants have no legal grounds to refute this claim.
- The Defendants' actions (or inactions) demonstrate a pattern of non-compliance that amounts to an admission of their legal failures, supported by the Strictures of the Statutes doctrine.

### **Closing Statement:**

The Defendants cannot rely on the Deed of Trust or Promissory Note to circumvent the Plaintiff's constitutional right to a trial by jury. Any language in these documents that purports to waive such unalienable rights is void and unenforceable. The Defendants are presumed to know the law, and their actions in proceeding with the foreclosure without respecting these rights constitute a willful disregard for established legal principles. The quasi-judicial nature of the trustee's role and the Chevron Deference standard further emphasize that courts should not defer to administrative practices that undermine constitutional rights. California Civil Code § 6 further supports the Plaintiff's position by ensuring that constitutional rights are preserved and cannot be abrogated by any contractual agreement. The principles of estoppel by silence and admissions by conduct further cement the Defendants' failure to contest the violation of these rights.

### **Second Cause of Action: Breach of Duty by Trustee**

#### **Summary:**

The Defendants, particularly Clear Recon Corp (CRC) in its role as the trustee, violated their fiduciary and legal duties by failing to act impartially and fairly in the foreclosure process. This cause of action highlights CRC's obligations as a trustee, the implications of its fictitious

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1 nature as a corporate entity, and the conflict of interest arising from its close ties with Aldridge  
2 Pite LLP. The failure to address the Plaintiff's constitutional protest and the pattern of non-  
3 compliance demonstrate a deliberate disregard for legal and ethical standards.

#### 4 **Detailed Analysis:**

##### 5 **1. Trustee's Role and Legal Obligations:**

- 6 ○ **Trustee's Duty to Both Parties:** As established in *Hatch v. Collins*, 225  
7 Cal.App.3d 1104 (1990), the trustee under a deed of trust serves as a common  
8 agent for both the trustor (borrower) and the beneficiary (lender). This role  
9 imposes a duty on the trustee to act impartially, ensuring that the rights of both  
10 parties are respected. The trustee must conduct the foreclosure process "fairly,  
11 openly, reasonably, and with due diligence," safeguarding the trustor's  
12 constitutional rights while fulfilling the obligations owed to the beneficiary.
- 13 ○ **Clear Recon Corp (CRC) as Trustee:** In its capacity as the trustee, Clear  
14 Recon Corp (CRC) was legally obligated to uphold these duties. This includes the  
15 responsibility to properly address any constitutional protests raised by the trustor.  
16 CRC's failure to do so represents a breach of its legal obligations as a trustee,  
17 thereby undermining the trustor's rights and the integrity of the foreclosure  
18 process.

##### 19 **2. Fictitious Nature of the Trustee Entity:**

- 20 ○ **CRC as a Fictitious Entity:** Clear Recon Corp is not a living person but a  
21 corporate entity, which inherently lacks the capacity to exercise judgment or  
22 discretion in the same way that a living man or woman could. The officers and  
23 agents of CRC should have sought competent legal counsel to assist in making  
24 decisions as important as responding to a constitutional protest.

- **Need for Legal Counsel:** Competent legal counsel exists at the same address as CRC. The law firm Aldridge Pite LLP, where Steven Pite, Esq. is a Senior Partner and the incorporator of CRC in 2012, and where Casper Rankin, Esq. is a Supervising Partner and the registered agent for CRC, would indicate that CRC had access to legal counsel. The fact that a high-level partner was duly informed when the Plaintiff sent the constitutional protest underscores the expectation that CRC should have properly addressed the protest. The absence of appropriate legal action or the failure of legal counsel to respond appropriately exacerbates CRC's breach of its duties, reflecting a disregard for the significant legal implications of the constitutional protest and further violating the trustor's rights.

### 3. **Tight Bond Between CRC and Aldridge Pite:**

- **Interconnected Roles:** The close relationship between CRC and Aldridge Pite, as evidenced by shared personnel and overlapping roles, creates a situation where the trustee's impartiality is compromised. This tight bond raises serious questions about whether CRC, as trustee, can truly act in the best interest of both parties, as required by law.
- **Conflict of Interest:** The overlap between CRC and Aldridge Pite suggests a potential conflict of interest, where decisions made by the trustee may be unduly influenced by considerations that favor the beneficiary at the expense of the trustor. This is especially concerning in the context of a constitutional protest, where the trustor's rights must be vigilantly protected. CRC's failure to act impartially and its failure to address the constitutional protest further underscore this conflict.

1       **4. Pattern and Practice of Non-Compliance:**

- 2           ○ **Systemic Issues:** The actions (or inactions) of CRC, in concert with Aldridge
- 3           Pite, reflect a broader pattern and practice of non-compliance with legal
- 4           obligations. This systemic failure to adhere to statutory requirements and to
- 5           respect constitutional rights is not merely an oversight but part of a deliberate
- 6           strategy to circumvent the legal protections afforded to the trustor.
- 7           ○ **Implications for Due Process:** By failing to properly engage with the
- 8           constitutional protest, CRC has not only violated its duties as a trustee but has
- 9           also undermined the due process rights of the trustor. This pattern of non-
- 10          compliance is indicative of a broader disregard for the legal standards that
- 11          govern foreclosure proceedings and the constitutional protections that are
- 12          supposed to safeguard the trustor's rights.

13       **5. Legal and Ethical Violations:**

- 14          ○ **Breach of Duty and Ethical Standards:** CRC's failure to fulfill its obligations
- 15          as a trustee, coupled with the apparent conflict of interest stemming from its
- 16          relationship with Aldridge Pite, constitutes a clear breach of both legal duties and
- 17          ethical standards. The trustee's role is one of significant responsibility, requiring
- 18          the highest level of integrity and impartiality. CRC's actions fall far short of these
- 19          requirements, resulting in a violation of the trustor's rights and the legal
- 20          standards that govern the foreclosure process.
- 21          ○ **Need for Accountability:** Given the severity of these violations, it is imperative
- 22          that CRC and its associated legal counsel be held accountable for their actions.
- 23          The breach of duty by the trustee, as demonstrated by the mishandling of the
- 24          constitutional protest and the underlying conflict of interest, demands legal

1 redress to protect the trustor's rights and to uphold the integrity of the legal  
2 system.

3 **Closing Statement:**

4 Clear Recon Corp (CRC), in its role as trustee, has demonstrated a blatant disregard for  
5 its legal and ethical obligations by failing to address the Plaintiff's constitutional protest and by  
6 engaging in a pattern of non-compliance that undermines the trustor's rights. The tight bond  
7 between CRC and Aldridge Pite, coupled with the inherent conflict of interest arising from their  
8 interconnected roles, further exacerbates the breach of duty. CRC's actions not only violate the  
9 trustor's constitutional rights but also contravene the legal standards that govern the  
10 foreclosure process. The Plaintiff seeks legal redress to hold CRC and its associated legal  
11 counsel accountable for these violations and to ensure that the integrity of the legal system is  
12 upheld.

13 **Third Cause of Action: Negligence / Gross Negligence**

14 **Summary:**

15 The Defendants, particularly Clear Recon Corp (CRC) in its role as trustee, and Aldridge  
16 Pite LLP, demonstrated gross negligence by failing to exercise the standard of care required by  
17 law in handling the foreclosure process. This cause of action asserts that CRC, as a fictitious  
18 entity, had a duty to seek competent legal counsel to address the Plaintiff's constitutional  
19 protest, a duty which was further emphasized by the close relationship between CRC and  
20 Aldridge Pite LLP. The failure to verify the validity of the assignment, to recognize the  
21 constitutional protest, and to ensure the foreclosure was conducted lawfully, constitutes a  
22 serious breach of duty. This negligence directly resulted in significant harm to the Plaintiff,  
23 including economic loss, emotional distress, and other damages. The court must provide a

1 remedy for this gross negligence to uphold the legal and ethical standards that govern the  
2 foreclosure process.

### 3 **Detailed Analysis:**

#### 4 **1. Duty of Care:**

- 5 ○ **Legal Obligation:** Negligence occurs when a party fails to exercise the level of  
6 care that a reasonably prudent person would under similar circumstances,  
7 resulting in harm to another party. Gross negligence is a more severe form of  
8 negligence, where the party's actions show a reckless disregard for the safety or  
9 rights of others. In this case, the Defendants, particularly Clear Recon Corp  
10 (CRC) as trustee, and its agents, including Casper Rankin, Esq., a Supervising  
11 Partner at Aldridge Pite LLP, had a duty of care to the Plaintiff. This duty required  
12 them to ensure that the foreclosure process was conducted lawfully, ethically,  
13 and in compliance with all relevant legal standards, particularly those protecting  
14 the Plaintiff's constitutional rights.

#### 15 **2. Breach of Duty:**

- 16 ○ **Failure to Address Constitutional Protest:** The Defendants breached their  
17 duty of care by proceeding with a foreclosure process that disregarded the  
18 Plaintiff's constitutional protest, which was included in the Peremptory Notice.  
19 This failure to recognize and act upon the protest constitutes a serious breach of  
20 duty, as the protest should have triggered a thorough legal review and careful  
21 consideration of the Plaintiff's rights.
- 22 ○ **Void Assignment and Lack of Verification:** The Defendants also breached  
23 their duty by proceeding with a foreclosure based on a potentially void  
24 assignment, without conducting proper verification. The failure to ensure the

1 validity of the assignment and the legality of the foreclosure process  
2 demonstrates a reckless disregard for the Plaintiff's rights, elevating the  
3 negligence to gross negligence.

4 ○ **Role of Legal Counsel:** As a fictitious entity, CRC relied on its agents,  
5 particularly its legal counsel at Aldridge Pite LLP, to navigate the legal  
6 complexities of the foreclosure process. The failure of these legal professionals to  
7 provide competent advice and to address the constitutional protest represents a  
8 severe breach of their duty of care. Given the close relationship between CRC  
9 and Aldridge Pite, and the involvement of high-level partners like Casper Rankin,  
10 Esq., this breach is particularly egregious.

### 11 3. Causation and Harm:

12 ○ **Direct Impact on Plaintiff:** The Defendants' breach of their duty of care  
13 directly caused harm to the Plaintiff. The wrongful foreclosure based on a void  
14 assignment, coupled with the neglect of the constitutional protest, led to  
15 significant and ongoing harm to the Plaintiff, including economic losses, damage  
16 to credit, emotional distress, and other financial damages. These harms are the  
17 direct result of the Defendants' negligent actions, which set in motion the events  
18 leading to the foreclosure.

19 ○ **Proximate Cause:** The actions (or inactions) of the Defendants, particularly  
20 those of CRC, Casper Rankin, Esq., and the legal team at Aldridge Pite, were the  
21 proximate cause of the Plaintiff's damages. Their collective failure to exercise due  
22 diligence and to address the constitutional protest directly resulted in the  
23 Plaintiff's wrongful foreclosure and the subsequent harm.

### 24 4. Judicial Notice & Legal Maxims:

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Materials in Support of Claim of Constitutional Trespass



- 1           ○ **Standard of Care and Legal Obligations:** The Mandatory Judicial Notice  
2           requires the court to recognize the standard of care that the Defendants were  
3           expected to meet. The maxim "Culpa lata dolo aequiparatur" (Gross negligence is  
4           equivalent to fraud) is particularly relevant if the court finds that the Defendants'  
5           actions amounted to gross negligence. Additionally, "Lex semper dabit  
6           remedium" (The law will always provide a remedy) supports the need for the  
7           court to remedy the harm caused by the Defendants' negligence and to provide  
8           justice to the Plaintiff.

9       **5. Evidence of Negligence:**

- 10           ○ **Disregard for Legal Standards:** The evidence of negligence is clear in the  
11           Defendants' failure to adhere to the legal requirements set forth in California Civil  
12           Code §§ 6 and 2924, and their disregard for the Recission for Fraud. The lack of  
13           proper verification of the assignment's validity and the failure to address the  
14           constitutional protest further highlight the gross negligence involved.
- 15           ○ **Role of Legal Counsel:** The involvement of legal professionals at Aldridge Pite  
16           LLP, including Casper Rankin, Esq., in these failures, further supports the claim of  
17           gross negligence. As legal counsel to CRC, they had a responsibility to ensure  
18           that the foreclosure process was legally justified and that the Plaintiff's  
19           constitutional rights were protected. Their failure to do so, particularly in light of  
20           the constitutional protest, demonstrates a reckless disregard for their legal and  
21           ethical obligations.

22       **6. Case Law Support:**

- 23           ○ **Rowland v. Christian, 69 Cal.2d 108 (1968):** This case establishes the  
24           general duty of care principle in California, which requires individuals to act with

1 reasonable care to prevent harm to others. The court in Rowland emphasized  
2 that a breach of this duty that causes harm constitutes negligence.

- 3 ○ **Burgess v. Superior Court, 2 Cal.4th 1064 (1992):** This case discusses the  
4 heightened duty of care in fiduciary relationships and the severe consequences  
5 of breaching that duty, which can result in gross negligence. The Defendants'  
6 failure to adhere to their fiduciary duties as trustees and legal counsel aligns with  
7 the principles established in Burgess.

#### 8 **7. Casper Rankin's Role and Aldridge Pite LLP's Liability:**

- 9 ○ **Casper Rankin's Role:** As the Registered Agent for CRC and a Supervising  
10 Partner at Aldridge Pite LLP, Casper Rankin, Esq. had a heightened duty of care  
11 to ensure that the foreclosure was conducted lawfully and ethically. His failure to  
12 verify the legal authority for the foreclosure, to recognize the constitutional  
13 protest, and to provide a license upon demand constitutes gross negligence. His  
14 actions, or lack thereof, directly contributed to the harm suffered by the Plaintiff.
- 15 ○ **Aldridge Pite LLP's Liability:** As the legal counsel advising CRC, Aldridge Pite  
16 LLP shares liability for the gross negligence that occurred. Their involvement in  
17 facilitating the foreclosure without proper legal authority and their failure to  
18 address the constitutional protest make them equally responsible for the  
19 damages suffered by the Plaintiff.

#### 20 **Closing Statement:**

21 The Defendants, particularly Clear Recon Corp (CRC) and Aldridge Pite LLP,  
22 demonstrated gross negligence by failing to adhere to the standard of care required in handling  
23 the foreclosure process. Their reckless disregard for the Plaintiff's constitutional rights and their  
24 failure to address the constitutional protest resulted in significant harm to the Plaintiff. The

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1 court must recognize this negligence and provide appropriate remedies to address the damages  
2 suffered by the Plaintiff, holding the Defendants accountable for their grossly negligent actions.

### 3 **Fourth Cause of Action: Violation of Due Process Rights**

#### 4 **Summary:**

5 This section details the specific violations of the Plaintiff's due process rights during the  
6 foreclosure process. The Defendants, particularly Clear Recon Corp (CRC), Aldridge Pite LLP,  
7 and Casper Rankin, Esq., failed to adhere to the constitutional and statutory requirements  
8 necessary to ensure a lawful foreclosure. The evidence demonstrates that the foreclosure was  
9 conducted based on a void assignment, without proper notice, and in disregard of the Plaintiff's  
10 constitutional protest and California Civil Code §§ 6 and 2920 et seq. The failure to provide due  
11 process resulted in the unlawful deprivation of the Plaintiff's property, necessitating judicial  
12 intervention to remedy this violation.

#### 13 **Detailed Analysis:**

##### 14 **1. Constitutional Guarantee of Due Process:**

- 15 ○ The Due Process Clauses of the U.S. Constitution (Fifth and Fourteenth  
16 Amendments) guarantee that no person shall be deprived of life, liberty, or  
17 property without due process of law. In the context of foreclosure, due process  
18 means that the homeowner must be given adequate notice, a fair opportunity to  
19 contest the foreclosure, and that the process itself must adhere to the law.  
20 California Civil Code § 2920 et seq. imposes procedural safeguards to ensure that  
21 foreclosures are conducted fairly and lawfully.

##### 22 **2. Failure to Provide Adequate Notice and Opportunity to Be Heard:**

- 23 ○ The Defendants, specifically Clear Recon Corp (CRC), their putative legal counsel  
24 Aldridge Pite LLP, and the putative Client Manager and Registered Agent for the

1 San Diego office of Clear Recon Corp, Casper Rankin, Esq., along with his agents  
2 or assigns, failed to provide the Plaintiff with adequate notice and a fair  
3 opportunity to contest the foreclosure. The foreclosure was initiated based on a  
4 void assignment, despite the Recission for Fraud challenging the legality of the  
5 foreclosure. The Plaintiff was not given a fair chance to defend their property  
6 rights before the foreclosure proceeded, violating the Plaintiff's constitutional  
7 right to due process.

8 **3. Due Process in Non-Judicial Foreclosures:**

- 9 ○ Although non-judicial foreclosures, like the one at issue here, do not involve  
10 court proceedings, they are still subject to due process requirements. This  
11 includes ensuring that the foreclosure is conducted according to the law and that  
12 the Plaintiff's rights are respected. California Civil Code § 2920 et seq. provides  
13 specific procedures that must be followed to satisfy due process, including proper  
14 notice, verification of the lender's authority, and adherence to statutory timelines.  
15 The Defendants, particularly Clear Recon Corp (CRC) and their legal counsel  
16 Aldridge Pite LLP, along with Casper Rankin, Esq., his agents or assigns, failed to  
17 follow these procedures. The absence of any mention of California Civil Code § 6  
18 in the notices further violated due process, as the Plaintiff was not fully informed  
19 of their constitutional and accrued rights. While the notice mentions § 2923.3  
20 and advises the recipient to consult an attorney, it fails to mention the  
21 constitutional rights protected under Civil Code § 6. This omission constitutes a  
22 clear violation of the Plaintiff's due process rights, as the foreclosure was carried  
23 out without adhering to the necessary legal and constitutional safeguards.

24 **4. Impact of the Void Assignment:**

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- 1           ○ The void assignment meant that NewRez LLC and Clear Recon Corp did not have  
2           the legal standing to foreclose. Proceeding with the foreclosure despite this lack  
3           of standing deprived the Plaintiff of their property without due process, as the  
4           foreclosure was not legally justified. This violation of due process rights is further  
5           compounded by the failure of Casper Rankin, Esq., his agents or assigns, to  
6           verify the legality of the foreclosure before advising Clear Recon Corp to proceed.

7       **5. Judicial Notice & Legal Maxims:**

- 8           ○ The Mandatory Judicial Notice requires the court to recognize that due process  
9           rights are fundamental and must be respected in all legal actions, including  
10          foreclosure. The maxim "Audi alteram partem" (Let the other side be heard as  
11          well) applies here, emphasizing that the Plaintiff was not given a fair opportunity  
12          to present their case or challenge the foreclosure. The maxim "Lex semper dabit  
13          remedium" (The law will always provide a remedy) supports the need for the  
14          court to remedy the violation of the Plaintiff's due process rights.

15       **6. Evidence of Due Process Violations:**

- 16          ○ The evidence includes the failure of the Defendants to provide proper notice, the  
17          lack of legal authority due to the void assignment, and the disregard for the  
18          Rescission for Fraud. These actions demonstrate a clear violation of the Plaintiff's  
19          due process rights, as the foreclosure proceeded without giving the Plaintiff a fair  
20          chance to contest it or without following the legal procedures required by  
21          California Civil Code §§ 6 and 2920 et seq.

22       **7. Case Law Support:**

- 23          ○ *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950): Establishes  
24          that due process requires notice and an opportunity to be heard before any legal

1 action that affects a person's rights is taken. The court in *Mullane* emphasized  
2 the importance of fair procedures in ensuring that parties are not deprived of  
3 their rights without proper legal justification.

- 4 ○ *Garcia v. Federal National Mortgage Association*, 183 Cal.App.4th 1031 (2010):  
5 Discusses due process in the context of foreclosure and emphasizes the need for  
6 strict adherence to statutory procedures to ensure that homeowners' rights are  
7 protected.
- 8 ○ *Bennett v. Boggs*, 1 Baldw. 60: Reinforces the principle that statutes or actions  
9 violating common right and reason are null and void, further supporting the  
10 Plaintiff's position that the foreclosure process, as conducted, was  
11 unconstitutional.

#### 12 8. **Casper Rankin's Role:**

- 13 ○ **Legal Duty:** Casper Rankin, Esq., as the attorney advising Clear Recon Corp,  
14 had a duty to ensure that the foreclosure process respected the Plaintiff's due  
15 process rights. His failure to verify the legality of the foreclosure, ensure proper  
16 notice, or address the Rescission for Fraud before advising Clear Recon Corp to  
17 proceed constitutes a violation of the Plaintiff's due process rights. His actions, or  
18 lack thereof, contributed to the potential deprivation of the Plaintiff's property  
19 without the fair legal process guaranteed under the Constitution.

#### 20 **Closing Statement:**

21 The Defendants, including Clear Recon Corp (CRC) and their legal counsel Aldridge Pite  
22 LLP, along with Casper Rankin, Esq., violated the Plaintiff's due process rights by proceeding  
23 with a foreclosure based on a void assignment without providing proper notice or a fair  
24 opportunity to contest the action. The foreclosure was carried out without the legal authority

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1 required by law, depriving the Plaintiff of their property without due process. The court must  
2 recognize this violation and provide appropriate remedies to address the harm caused.

### 3 **Fifth Cause of Action: Constructive Fraud**

#### 4 **Summary:**

5 The Defendants, particularly Casper Rankin, Esq., engaged in constructive fraud by  
6 failing to disclose the true nature of the assignment and their lack of authority to foreclose. This  
7 cause of action asserts that the foreclosure was the result of misleading actions and omissions  
8 that violated the Defendants' fiduciary duties and caused harm to the Plaintiff.

#### 9 **Detailed Analysis:**

##### 10 **1. Definition of Constructive Fraud:**

- 11 ○ Constructive fraud occurs when a breach of duty results in harm to another  
12 party, even without the intent to deceive. It often arises in fiduciary relationships,  
13 where one party has a duty to act in the best interest of another. The actions of  
14 Clear Recon Corp (CRC), NewRez LLC, Shellpoint Mortgage Servicing, and Casper  
15 Rankin, Esq. may have constituted constructive fraud by misleading the Plaintiff  
16 and the court regarding their authority and the validity of the foreclosure.

##### 17 **2. Elements of Constructive Fraud:**

- 18 ○ Constructive fraud involves a breach of legal or equitable duty that leads to an  
19 advantage for the party at fault or harm to the party relying on the  
20 misrepresentation. The Plaintiff relied on the representations made by the  
21 Defendants regarding the validity of the assignment and their authority to  
22 foreclose. The Defendants' failure to disclose the true nature of the assignment,  
23 especially after the Recission for Fraud was issued, misled the Plaintiff and the  
24 court, resulting in the wrongful foreclosure.

1       **3. Breach of Fiduciary Duty:**

- 2               ○ As fiduciaries, Clear Recon Corp (CRC) and Casper Rankin, Esq. were obligated to  
3               act in the best interest of the Plaintiff and to disclose any material facts that  
4               could affect the Plaintiff's rights. Their failure to disclose the invalidity of the  
5               assignment and their lack of legal authority to foreclose constitutes a breach of  
6               this fiduciary duty, leading to constructive fraud.

7       **4. Judicial Notice & Legal Maxims:**

- 8               ○ The Mandatory Judicial Notice requires the court to recognize the elements of  
9               constructive fraud when a party's actions mislead another and cause harm, even  
10              without explicit intent to deceive. The maxim "Caveat emptor" (Let the buyer  
11              beware) is inverted in this context, as the Plaintiff was misled by those in  
12              positions of trust. Additionally, "Lex semper dabit remedium" (The law will always  
13              provide a remedy) supports the need for judicial intervention to address the  
14              harm caused.

15       **5. Evidence of Constructive Fraud:**

- 16              ○ The Rescission for Fraud issued by the Plaintiff clearly outlined that NewRez LLC  
17              and Shellpoint Mortgage Servicing had no legal authority to foreclose due to a  
18              void assignment. The Defendants' failure to address this issue and their  
19              continued actions in enforcing the foreclosure, despite knowing the assignment  
20              was void, misled the Plaintiff and the court, resulting in a wrongful foreclosure.  
21              ○ Casper Rankin, Esq., by failing to provide his license upon demand and  
22              potentially misrepresenting his authority, further contributed to this constructive  
23              fraud. His actions, whether through omission or commission, misled the Plaintiff  
24              regarding his legal standing and the legitimacy of the foreclosure process.



1       **6. Case Law Support:**

- 2           ○ *Wells Fargo Bank v. Gump*, 1 Cal.App.4th 582, 2 Cal. Rptr. 2d 269 (Cal. Ct. App.
- 3           1991): This case illustrates that constructive fraud can occur even in the absence
- 4           of intent to deceive, particularly in fiduciary relationships where one party fails to
- 5           disclose material information, leading to harm. The court in *Gump* recognized
- 6           that a breach of fiduciary duty resulting in an unfair advantage or harm to
- 7           another party can constitute constructive fraud.
- 8           ○ *Yvanova v. New Century Mortgage Corp.*, 62 Cal.4th 919 (2016): Supports the
- 9           Plaintiff's right to challenge the foreclosure based on a void assignment, directly
- 10          relating to the issue of constructive fraud where the Defendants misrepresented
- 11          their authority to foreclose.

12       **7. Casper Rankin's Role:**

- 13          ○ **Fiduciary Duty and Misrepresentation:** Casper Rankin, Esq., as the
- 14          Registered Agent for Clear Recon Corp and a Supervising Partner at Aldridge Pite
- 15          LLP, had a fiduciary duty to act transparently and in the best interest of the
- 16          Plaintiff. His failure to disclose his legal authority and the legitimacy of the
- 17          foreclosure process, particularly in light of the Recission for Fraud, constitutes
- 18          constructive fraud. His actions misled the Plaintiff and the court, resulting in
- 19          harm that must be addressed.

20       **Closing Statement:**

21          The Defendants, including Casper Rankin, Esq., engaged in constructive fraud by

22          misleading the Plaintiff and the court regarding their authority to foreclose. Their actions,

23          whether through omission or misrepresentation, violated their fiduciary duties and resulted in

1 harm to the Plaintiff. The court must recognize this constructive fraud and provide appropriate  
2 remedies to address the wrongful foreclosure and the breach of duty that occurred.

### 3 **Sixth Cause of Action: Unjust Enrichment**

#### 4 **Summary:**

5 NewRez LLC, Clear Recon Corp (CRC), and Casper Rankin, Esq. were unjustly enriched  
6 by the proceeds and payments they received through a wrongful foreclosure. This cause of  
7 action asserts that it would be inequitable for these parties to retain these benefits, and the  
8 court must provide a remedy to address this unjust enrichment.

#### 9 **Detailed Analysis:**

##### 10 **1. Definition of Unjust Enrichment:**

- 11 ○ Unjust enrichment occurs when one party benefits at the expense of another  
12 under circumstances where it would be inequitable for them to retain that benefit  
13 without compensating the other party. In this case, multiple parties—NewRez  
14 LLC, Clear Recon Corp (CRC), Aldridge Pite LLP, and Casper Rankin, Esq.—were  
15 unjustly enriched through the wrongful foreclosure process, each receiving  
16 financial benefits at the expense of Citibank, N.A., who held a financial interest in  
17 the property.

##### 18 **2. Unjust Enrichment of NewRez LLC:**

- 19 ○ NewRez LLC received full settlement through the foreclosure process, despite the  
20 foreclosure being based on a void assignment and challenged by the Recission  
21 for Fraud. NewRez was unjustly enriched by the proceeds from the wrongful  
22 foreclosure, as they were obtained without the legal authority to foreclose.  
23 Retaining these funds is inequitable because they were acquired through a

process that violated the Plaintiff's rights and failed to adhere to statutory and constitutional safeguards.

**3. Unjust Enrichment of Clear Recon Corp (CRC):**

- Clear Recon Corp, acting as the trustee, was paid for its services in facilitating the foreclosure. However, the foreclosure was conducted based on a void assignment, making the services provided by Clear Recon Corp unlawful. Clear Recon Corp was unjustly enriched by receiving payment for facilitating a foreclosure that they had no lawful authority to execute. The trustee's role in enforcing a void foreclosure, despite being paid for these services, constitutes a clear case of unjust enrichment.

**4. Unjust Enrichment of Casper Rankin, Esq.:**

- Casper Rankin, Esq., as the Supervising Partner at Aldridge Pite LLP and Registered Agent for Clear Recon Corp, received payment for legal services related to the foreclosure. Casper Rankin was unjustly enriched by receiving payment for legal services that facilitated an unlawful foreclosure. His failure to verify the legitimacy of the foreclosure, particularly in light of the Recission for Fraud, and his refusal to provide his license upon lawful demand, allowed him to benefit financially from actions that violated the Plaintiff's rights.

**5. Judicial Notice & Legal Maxims:**

- The Mandatory Judicial Notice requires the court to recognize the equitable principle that no party should be allowed to profit from unlawful actions. The maxim "Nemo debet locupletari ex alieno damno" (No one ought to enrich himself at the expense of another's damage) applies directly, emphasizing that the Defendants must not retain benefits gained through wrongful means.

1           Additionally, "Ex aequo et bono" (According to what is equitable and good)  
2           supports the court's intervention to require restitution or compensation for unjust  
3           enrichment.

4       **6. Evidence of Unjust Enrichment:**

- 5           ○ **NewRez LLC:** The wrongful receipt of settlement funds through the foreclosure.
- 6           ○ **Clear Recon Corp:** Payment for trustee services that were rendered unlawfully
- 7           due to the void assignment.
- 8           ○ **Casper Rankin, Esq.:** Payment for legal services that facilitated the unlawful
- 9           foreclosure without verifying its legality or providing his license.
- 10          ○ **Citibank, N.A.:** Citibank, as the second mortgage holder, purchased the first
- 11          mortgage to protect its interest in the second. As a party of interest, Citibank
- 12          should be compensated in any restitution.

13       **7. Case Law Support:**

- 14          ○ *Ghirardo v. Antonioli*, 14 Cal.4th 39 (1996): Establishes that a party unjustly
- 15          enriched at another's expense is obligated to make restitution. The court in
- 16          *Ghirardo* emphasized that where benefits have been unjustly retained, equity
- 17          requires those benefits to be returned or compensated.
- 18          ○ *Lectrodryer v. SeoulBank*, 77 Cal.App.4th 723 (2000): Supports the principle that
- 19          unjust enrichment is actionable when one party has been enriched through
- 20          wrongful means, and the law demands restitution to prevent unjust outcomes.

21       **Closing Statement:**

22       The Defendants—NewRez LLC, Clear Recon Corp (CRC), and Casper Rankin, Esq.—were  
23       each unjustly enriched through their involvement in the unlawful foreclosure. Each party  
24       received financial benefits that were wrongfully obtained at the expense of the Plaintiff and

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1 Citibank, N.A. The court must recognize this unjust enrichment and order the Defendants to  
2 make restitution or provide compensation for the benefits they unjustly retained.

### 3 **III. Annexed Documents**

#### 4 **A. Peremptory Notice to Clear Recon Corp and Casper Rankin, Esq.** (May 18, 5 2024)

- 6 ○ **Cease and Desist Demand:** The Peremptory Notice demands that Clear Recon  
7 Corp (CRC) and Casper Rankin, Esq. immediately cease all nonjudicial foreclosure  
8 actions on the property located at 11782 Blackberry Place, Nevada City,  
9 California, due to identified constitutional violations and breaches of fiduciary  
10 duty.
- 11 ○ **Notification of Rescission for Fraud:** The Notice formally informs CRC of the  
12 Rescission for Fraud, challenging the legitimacy of the mortgage and asserting  
13 that any foreclosure actions undertaken without addressing this rescission would  
14 be unlawful and void ab initio.
- 15 ○ **Request for Documentation:** A key component of the Notice is the demand  
16 that Casper Rankin, Esq., in his capacity as a supervising partner and registered  
17 agent for CRC, provide a copy of his license to practice law, as required under  
18 the California Public Records Act. This request emphasizes the need for  
19 transparency and the verification of legal authority.
- 20 ○ **Suspension of Trustee Sale:** The Notice demands the immediate suspension  
21 of any trustee sale until such time as a trial by jury has adjudicated the matter,  
22 asserting the Plaintiff's unalienable right under the Seventh Amendment to a trial  
23 by jury.

- **Audit Request:** An audit of all financial documents related to the mortgage and its modifications is requested, emphasizing the necessity of a thorough investigation before any further legal actions are taken.
- **Stipulation to Material Facts:** The Notice details a series of material facts that, if not rebutted by CRC, will be deemed accepted by default. These include challenges to the legality of the original mortgage and the legal standing of the entities involved in the foreclosure process.
- **Constitutional Rights Emphasis:** The Notice underscores the Plaintiff's constitutional rights under the Fifth, Sixth, Seventh, Ninth, and Tenth Amendments, asserting that any action taken without due process and the guarantee of a jury trial would constitute a violation of these fundamental rights.

#### **B. Notice of Fault – California Public Record Act (CPRA) Request** (June 8, 2024)

- **Overview:** This document serves as a formal notice of fault directed at Casper Rankin, Esq., following his failure to comply with a previous CPRA request. It underscores the non-compliance with the CPRA, particularly regarding the request for a copy of Rankin's license to practice law. Additionally, Clear Recon Corp (CRC) was notified of Rankin's failure to respond, further highlighting the Defendants' disregard for legal obligations and supporting the Plaintiff's claims of non-compliance and potential concealment. This notice strengthens the Plaintiff's legal position against the Defendants.

#### **C. Corporate Filings and Evidence of Officer Roles**

- Documentation confirming the identities and roles of the officers of Clear Recon Corp.

## **IV. Summary**

### **Introduction to the Summary**

This summary encapsulates the comprehensive analysis and legal arguments presented in the **Materials in Support of Claim**. It reflects the gravity of the violations committed by the Defendants and underscores the necessity for judicial intervention to rectify the harm caused to the Plaintiff.

### **Overview of Claims**

The Plaintiff has brought forth 15 distinct causes of action against the Defendants, each supported by substantial legal precedent and factual evidence. These causes of action include: Violation of the Seventh Amendment - Right to Trial by Jury; Breach of Fiduciary Duty; Wrongful Foreclosure; By What Lawful Authority?; Negligence / Gross Negligence; Civil Conspiracy; Unjust Enrichment; Violation of Due Process Rights; Failure to Satisfy the Stricture of the Statutes; Declaratory Relief; Breach of Contract; Constructive Fraud; Fraud upon the Court; Violation of Oath of Office and Professional Duties; and Wrongful Burden on the Homeowner. Collectively, these claims reveal a pattern of egregious conduct by the Defendants, warranting significant legal remedies.

### **Key Legal Principles and Violations**

#### **1. Constitutional Violations**

- The Defendants' actions have infringed upon the Plaintiff's constitutional rights, particularly the Seventh Amendment's guarantee of a trial by jury and the due process protections under the Fifth Amendment. These violations strike at the core of the Plaintiff's legal rights and demand judicial correction.

#### **2. Breach of Fiduciary and Professional Duties**

- The Defendants, especially Clear Recon Corp and Casper Rankin, Esq., have blatantly breached their fiduciary and professional duties. These breaches include ignoring the void assignment, disregarding the Plaintiff's **Rescission for Fraud**, and proceeding with a wrongful foreclosure, thereby betraying the trust placed in them by the Plaintiff.

### 3. **Fraud and Misconduct**

- The Defendants engaged in deliberate fraud and misconduct, including fraud upon the court, which corrupted the judicial process and resulted in unjust actions against the Plaintiff. This fraudulent behavior has not only caused direct harm to the Plaintiff but also undermined the integrity of the legal system.

### 4. **Wrongful Foreclosure and Negligence**

- The Defendants wrongfully foreclosed on the Plaintiff's property, acting without lawful authority and in violation of statutory requirements. Their negligent actions, including failure to verify legal standing and ignoring critical legal obligations, have caused substantial damage to the Plaintiff.

## **Impact on the Plaintiff**

### 1. **Financial Harm**

- The unlawful actions of the Defendants have led to severe financial losses for the Plaintiff, including the wrongful loss of property, diminished property value, and associated legal costs.

### 2. **Emotional and Reputational Damage**

- Beyond financial harm, the Plaintiff has suffered significant emotional distress and reputational damage as a result of the Defendants' actions. The stress and



1 hardship caused by defending against an unlawful foreclosure and fighting for  
2 justice have taken a profound toll on the Plaintiff.

### 3 **Remedies Sought**

#### 4 **1. Compensatory Damages**

- 5 ○ The Plaintiff seeks compensatory damages to redress the financial and emotional  
6 harm suffered due to the Defendants' unlawful actions.

#### 7 **2. Punitive Damages**

- 8 ○ Punitive damages are warranted to punish the Defendants for their willful and  
9 malicious conduct, particularly the fraud and breaches of professional duty, and  
10 to deter such behavior in the future.

#### 11 **3. Injunctive and Declaratory Relief**

- 12 ○ The Plaintiff requests injunctive relief to prevent further unlawful actions by the  
13 Defendants and declaratory relief to clarify the legal rights and obligations of all  
14 parties involved, ensuring that such violations do not recur.

#### 15 **4. Restitution**

- 16 ○ Restitution is sought to recover any unjust gains obtained by the Defendants as a  
17 result of their wrongful actions, ensuring that the Plaintiff is made whole and that  
18 the Defendants do not profit from their misconduct.

### 19 **Summary**

20 In summary, the Plaintiff seeks not only to rectify the wrongs done but to reaffirm the  
21 fundamental principles of justice and fairness that underpin the legal system. The Defendants  
22 must be held accountable for their actions, and the Plaintiff's rights must be vindicated. The  
23 Court's intervention is necessary to ensure that justice is served, and that such egregious  
24 violations are neither condoned nor repeated.

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**Certification**

I, Paul-Edward: Gilbert, the Plaintiff in the above-captioned matter, do hereby certify under penalty of perjury and in accordance with the laws of the United States of America, that the statements and information provided herein are true, correct, and made with honesty and integrity. I affirm there is no intent to deceive, mislead, or provide false information, and that this complaint is presented in the spirit of truth and justice, fully aligned with the principles of common law.

**Dated:** August 2, A. D. 2024

**Autograph:** Paul E. Gilbert



Paul-Edward: Gilbert

**Notice to Principal is Notice to Agent, Notice to Agent is Notice to Principal;  
Applicable to all Successors, Assigns, and Agents:  
Silence, when there is a moral or legal Duty to respond, constitutes Fraud.**

**Peremptory Notice to Cease and Desist**

**From:** Paul-Edward: Gilbert, one of the People  
as authorized Signatory for:  
PAUL EDWARD GILBERT™©  
c/o 2036 Nevada City Highway #37 [95945]  
Grass Valley (45), California, U. S. of A.  
(non-domestic RFD, ZIP Code exempt)

**To:**

Casper Rankin, Esq. [S.B.C. #249196],  
d.b.a. Registered Agent for process  
Tammy Laird, d.b.a. TAMMY LAIRD,  
chief executive officer  
Edward Jamir, d.b.a. EDWARD JAMIR,  
Chief Financial Officer  
Hamsa Uchi, d.b.a. HAMSA UCHI,  
corporate secretary  
All Officers, employees, agents,  
CLEAR RECON CORP.  
8880 Rio San Diego Drive, Suite 725  
San Diego, California [92108]  
(Substitute for alleged original lender)  
crankin@aldridgepite.com

Casper Rankin, Esq. [S.B.C. #249196]  
d.b.a. as CASPER RANKIN, Esq.,  
Supervising Partner  
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1100 Virginia Drive, Suite 125  
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LAWYERS INCORPORATING SERVICE  
Registered Agent for NEWREZ LLC  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, California [95833]

My Record Identifier: NEWREZ d126357b

Your Reference Number: T.S. 112726-CA

**Regarding:** Violation of the Constitution of the United States and breach of fiduciary Duty

Dated this eighteenth day of May A. D. 2024

Sent by Priority Express or Certified  
Mail with Return Receipt  
EJ 652 451 435 US

9590 9402 7939 2305 0791 25

EJ 652 451 466 US

9590 9402 7939 2305 0791 32

EJ 652 451 449 US

9590 9402 7939 2305 0791 56

EJ 652 451 452 US

9590 9402 7939 2305 0781 35

**Notice to Principal is Notice to Agent, Notice to Agent is Notice to Principal;  
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Silence, when there is a moral or legal Duty to respond, constitutes Fraud.**

### **Lawful Notification**

In accord with California Commercial Code § 1202 et. seq., you are now being given Notice that NEWREZ LLC (hereinafter "NR") and CLEAR RECON CORP (hereinafter "CRC") are violating the Constitution of the United States. The Undersigned has notified or given notice by using the USPS Mail tracking numbers listed above. By taking such steps as may be reasonably required to inform the other person in ordinary course, whether the other person actually comes to know of it. A person "receives" a notice or notification when: it comes to that person's attention. Notice to Principal is Notice to Agent, Notice to Agent is Notice to Principal. The Undersigned has taken all reasonable administrative steps necessary to inform the Principal. The doctrine of respondeat superior<sup>1</sup> controls this commercial Matter:

### **Notice to Trustee**

Attention: Casper Rankin, Esq. [S.B.C. #249196], Edward Jamir, Tammy Laird and all un-named employees, officers of CLEAR RECON CORP., alleged to be acting as assigned Trustees on behalf of MERS, Inc., and on behalf of the original lender through unknown principals, including unknown partner firms, including all agents, assigns, successors, including any agent or assign that may aid and abet those named herein in the future this matter, including the "Trustee Sale" auctioneer et al (hereafter Respondents) take notice.

"We the People of the United States, in Order to form a more perfect Union, establish **Justice**, insure **domestic Tranquility**, provide for the common defence, promote the general Welfare, and secure the **Blessings of Liberty** to ourselves and our Posterity, do ordain and establish this **Constitution** for the United States of America." [The Preamble of the Constitution].

With this Constitution, the People created the federal government for the benefit of We the People, and this government created corporations. These corporations are to operate for the benefit of the people, just like government. Derativa potestas non potest esse major primitiva<sup>2</sup>.

The live agents serving in government cannot violate the Constitution, nor can the live agents of a corporation. To do so would be sedition and treason, warring against the people.

This Constitution embraces the common law, as do the statutes of California [Civil Code 22.2]. When this matter [trustee sale] is brought before a competent tribunal, common law is the rule of decision in all the courts of this State.

In this matter before us: Does NR have the authority to foreclose on the subject property? Both NR and the Undersigned will disagree on this subject. One possible result of a foreclosure is the taking of property under color of law.

The Seventh Amendment of the Bill of Rights, anytime there is a taking of property where the value is greater than \$20.00 United States Dollars, then a jury trial is required. In A. D. 1792 with the Coinage Act, the United States Dollar was fixed to a weight of silver in a Dollar coin. That

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<sup>1</sup> "Let the principal answer." [4 Co. Inst. 114; 2 Bouv. Inst. n. 1337; 4 Bouv. Inst. n. 3586. John Bouvier's Law Dictionary Sixth Edition (A. D. 1856)]

<sup>2</sup> "The power which is derived cannot be greater than that from which it is derived." [Bouvier's Law Dictionary Sixth Edition (A. D. 1856)].

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\$20.00 silver specie of A. D. 1792 is worth about \$400.00 in today's Federal Reserve Notes. The value of the security instrument exceeds this amount.

In the Constitution for the United States of America the Seventh Amendment is about the taking of property without due process. This constitutionally protected right is unalienable. "Where rights secured by the Constitution are involved, there can be **no rule making or legislation** which would abrogate them." [Miranda v. Arizona, 384 U.S. 426 @ 491]

California Civil Code § 2920 et. seq. are the statutes that regulate mortgages. These statutes provide the remedy should there be a need for a judicial or nonjudicial foreclosure. For there to be a nonjudicial foreclosure, it requires the **consent** of both parties. Without consent, the unalienable rights of the Undersigned would have been abrogated by statute and the U.S. Supreme Court holding in Miranda v. Arizona, 384 U.S. 436 @ 491 (1966) remedies that defect.

Long before Miranda v. Arizona, Id quod nostrum est, sine facto nostro ad alium transferi non potest<sup>3</sup>, the Undersigned does not give their **consent** to a transfer of title without a trial in a competent tribunal by jury of my peers, as provided by the Seventh Amendment.

In the Notice of Trustee Sale, there is a Notice to Bidders that they are only bidding on the security instrument, which is the property of the Undersigned. The title to the property, or the Deed of Trust, while not transferred with the trustee sale, will remain an issue. An issue which NR will have to answer at some point, and today is as good as any to start while NR and CRC have ready access to the files.

The following stipulation agreement of material facts will be entered into the administrative record, for future use in a competent tribunal should NR and or CRC fail to reach a settlement that the unalienable constitutionally-protected Rights of the Undersigned shall be protected.

In common law before seeking remedy in the court you are to exhaust your administrative remedies. The inability of the Undersigned and NR to reach a settlement is because NR remained silent when given notice that the mortgage was being rescinded for **fraud**.

An administrative process was used where the live agents for NR were given notice and opportunity to respond to the notice of rescission and rebut a stipulation agreement and the live agents for NR chose to be **silent** and acquiesce. **Qui tacit consentire videtur**<sup>4</sup>.

By remaining silent, NR was concealing the material fact that one of the agents involved in the mortgage modification of the subject property, was engaged in fraudulent misrepresentation, Aliud est celare, aliud tacere<sup>5</sup>, and any contract that has been touched by fraud is void ab initio.

To sell at auction in a trustee sale a promissory note, a security instrument that is tainted by fraud, would be a fraudulent act. NR needs to resolve this issue, before proceeding with the trustee sale.

As the Trustee, CRC must impartially decide, both parties have followed the administrative process to default. NR followed one which will result in a sale of property [the security instrument]

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<sup>3</sup> "What belongs to us cannot be transferred to another without our **consent**. Dig. 50, 17, 11. But this must be understood with this qualification, that the government may take property for public use, paying the owner its value. The title to property may also be acquired, with the **consent** of the owner, by a judgment of a competent tribunal." [Bouvier's Law Dictionary Sixth Edition (A. D. 1856)]

<sup>4</sup> "He who is silent appears to consent." [Jenk. Cent. 32. Bouvier's Law Dictionary Sixth Edition (A. D. 1856)]

<sup>5</sup> "To conceal is one thing, to be silent another" [Bouvier's Law Dictionary Sixth Edition (A. D. 1856)]

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and the Undersigned followed one which resulted in the rescission of the contract, therefore, there is nothing to sell; and, we are at an impasse.

The decision that the Trustee must make is either follow the Constitution and compel NR to get a judgment from a competent tribunal or to become a co-conspirator with NR when the Undersigned becomes compelled to take this matter to a competent tribunal.

When making this determination as to which path to follow, the Trustee will most likely consult with an attorney and that attorney will most likely be the Registered Agent for the Trustee, who just happens to be a supervising partner in the law firm which shares the same address as the Trustee.

CRC is a juristic person (i.e., an artificial entity), a creation of the state and is subject to the United States and California constitutions, and the statutes, rules, and regulations therein. CRC, its officers and agents cannot ignore the Constitution. If the live agents of CRC become aware of any violations of the Constitution or statutes, then the live agents of CRC have a fiduciary duty to uphold the Constitution and those statutes.

The Registered Agent for CRC is Casper John Rankin, Esq., a BAR licensed attorney.

The California State BAR is subject to the California Public Records Act<sup>6</sup> and all attorneys are required to have a "license" to practice law<sup>7</sup>.

Casper John Rankin, Esq., this serves as a lawful request for you, as an alleged "licensed" BAR attorney, to produce your license with your sworn oath indorsed upon it. Casper John Rankin, Esq. as a member of the State BAR, your license is subject to California Public Record Act requests. As one of the Beneficiaries in this Trustee Sale, the Undersigned has every right to verify your compliance with the statutes of the State of California.

Casper John Rankin, Esq., you have ten (10) business days [as provided by statute] to; (i) Provide a copy of your license, or (ii) A letter providing the Undersigned an estimate of when you will be able to provide it, or (iii) That you are unable to locate any responsive records, or (iv) That you are refusing to provide it and by what authority you are concealing a public record.

Failure to provide your license is concealment [to conceal is one thing]. If you have it, you have no reason to deny its release, it is a public record. If you do not have it and chose to be silent [to be silent another], then you are engaged in a fraudulent misrepresentation and your silence is evidence of that **fraud**.

In addition to the license to practice law being requested of Casper John Rankin, Esq., any licensed attorney who is going to be making responses on behalf of CRC or NR will be subject to the same requirement of producing their license to practice law.

### **Revocation of Consent**

The Undersigned is revoking their consent, if previously given. Any mortgage contract which has; a nonjudicial foreclosure clause and/or is following state statutes which allow for nonjudicial foreclosures; without a clause for the Undersigned to revoke that consent, is trespassing on the Undersigned's unalienable Rights guaranteed by the Constitution for the United States of

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<sup>6</sup> [Government Code § 7920.000 et. seq. and Business and Professions Code § 6001 (e)(2)]

<sup>7</sup> [Business and Professions Code § 6067]

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America. Any mortgage contract without a clause to withdraw consent to a nonjudicial foreclosure, then that clause which allows nonjudicial foreclosure, is **null and void** on its face and is subject to a severability clause, if one exists.

The federal Constitution is clear, if property is going to be taken from another, then the Fifth, Sixth, Seventh, Ninth, and Tenth Amendments must be followed, and the matter will be decided by a jury, should the parties fail to reach an administrative settlement.

The Undersigned and NR have not reached a settlement and the Undersigned is within their rights to demand that Undersigned's constitutionally-protected unalienable Rights are upheld. *Qui jure suo utitur, nemini facit injuriam*<sup>8</sup>. *Vigilantibus et non dormientibus serviunt leges*<sup>9</sup>.

### **Notice to Suspend Sale**

The putative Trustee, CRC, shall take notice that the Undersigned is not waiving our right to a trial by jury before any foreclosure "taking" may proceed.

Time is of the essence and the putative Trustee, CRC shall take notice and suspend any nonjudicial foreclosure on [REDACTED], California, until such time as the putative Trustee has a judgment from a trial by jury to proceed with the Trustee Sale.

Even if the putative Trustee, CRC, fails to suspend the sale, the Undersigned shall provide to the winning bidder an affidavit that the putative Trustee was notified of the constitutional violations and of the fraud committed by the Lender or the Lenders agents. And should Casper John Rankin, Esq., fail to provide his license, the fraud that is being committed by that concealment.

By demanding that the Undersigned's constitutionally-protected unalienable Rights are to be upheld can harm no one *Qui jure suo utitur, nemini facit injuriam*, except someone who is ignorant<sup>10</sup> of the law, *Error juris nocet*<sup>11</sup>, or is intent on denying the Undersigned the protections provided by those Rights.

The live agents of the putative Trustee shall uphold the Constitution for the United States of America or accept liability for the damages sustained by the Undersigned for the blatant disregard [trespass] of the Undersigned's constitutionally-protected unalienable Rights.

### **Audit**

With NR still holding the belief that they have the right to foreclose on the security instrument, an audit of all records created by the original contract is warranted and whether it is done now or as part of discovery is up to the adverse parties. Copies of the following documents are requested:

(i) The Deed of Trust, front and back. (ii) The Promissory Note [Security Instrument], all pages, front and back. (iii) Form FR2046 (showing the original balance sheet). (iv) IRS form 1099OID

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<sup>8</sup> "He who uses his legal rights, harms no one" [Bouvier's Law Dictionary, Sixth Edition, (A. D. 1856)]

<sup>9</sup> "The laws serve the vigilant, not those who sleep upon their rights." [2 Bouv. Inst. n. 2327. See Laches. Bouvier's Law Dictionary, Sixth Edition, (A. D. 1856)]

<sup>10</sup> Ignorance of the Law might be an excuse, but it is not a valid reason for the commission of a crime when the Law is easily and readily available to anyone making a reasonable effort to study the law [Ignorantia facti excusat, ignorantia juris non excusat. Ignorance of facts excuses, ignorance of law does not excuse. 1 Co. 177; 4 Bouv. Inst. n 3828. See Ignorance. John Bouvier's Law Dictionary, Sixth Edition (A. D. 1856)]

<sup>11</sup> Error of law is injurious. See 4 Bouv. Inst. n. 3828. John Bouvier's Law Dictionary, Sixth Edition (A. D. 1856)]

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which will identify who the principal funds originated from. (v) Which capital and interest was taken and who the recipient of the funds is, and who is holding the account in escrow, unadjusted. (vi) Form S3-A (registration) to show if, when and where the Promissory Note was sold. (vii) The 424 B-5 prospectuses (security filing). (viii) RC-S and RC-B call schedules. (ix) FAS 125, 133, 140, 5, and 95 forms.

The adverse parties will have twenty-eight (28) calendar days to produce the requested documents. Should the adverse parties need more time to produce the requested documents, the Undersigned will grant any reasonable request for an extension, provided of course that the Trustee Sale has been suspended.

**Stipulation to Material Facts by Agreement of the Parties**

Since it is the proclivity of an adversarial party to avoid providing truthful answers that vitiate their claims, the statements in the "Stipulation to Material Facts by Agreement of the Parties" have been denied, *Ei incumbit probatio qui dicit, non qui negat*<sup>12</sup>, by the Undersigned and that no such evidence exists, *De non apparentibus et non existntibus eadem est ratio*<sup>13</sup>, to the contrary.

If the putative Trustee (adversarial party) has evidence that can rebut any of the following statements, then the Trustee or their duly authorized agent, may enter specific and detailed objections, made under the penalties of perjury to be true, correct and materially complete, in the event we are not of one accord regarding the stipulated Material Facts so, our Agreement can be perfected into the administrative Record.

Should you fail to rebut the "Stipulation to Material Facts by Agreement of the Parties", then by your silence, ***qui tacit consentire videtur***, you unconditionally agree [Commercial Code § 1201(b)(3)] with the foregoing Material Facts.

1. The Undersigned has seen no admissible evidence and denies that such evidence exist that private property can be taken **without** due process.
2. The Undersigned has seen no admissible evidence and denies any such evidence exists that the Seventh Amendment to the Bill of Rights **does not** preserve the right to a trial by jury, when the value of the controversy exceeds twenty dollars.
3. The Undersigned has seen no admissible evidence and denies any such evidence exists that the California legislature has any authority to create a statute, which **violates** the Constitution for the United States of America.
4. The Undersigned has seen no admissible evidence and denies any such evidence exists that the judiciary of the State of California has any authority to uphold or enforce a statute that **violates** the Constitution for the United States of America.

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<sup>12</sup> "The burden of the proof lies upon him who affirms, not he who denies." [Dig. 22, 3, 2; Tait on Ev. 1; 1 Phil. Ev. 194; 1 Greenl. Ev. §74; 3 Louis. R. 83; 2 Dan. Pr. 408; 4 Bouv Inst. n. 4411. Bouvier's Law Dictionary Sixth Edition (A. D. 1856)]

<sup>13</sup> "The reason is the same respecting things which do not appear, and those which do not exist." [Bouvier's Law Dictionary Sixth Edition (A. D. 1856)]



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5. The Undersigned has seen no admissible evidence and denies any such evidence exists that the Trustee **does not** have a fiduciary Duty to the Undersigned regarding this commercial Matter.
6. The Undersigned has seen no admissible evidence and denies any such evidence exists that the assertion of federal rights, when plainly and reasonably made, **can** be defeated under the name of practice. [Bennett v. Boggs, 1 Baldw. 60]
7. The Undersigned has seen no admissible evidence and denies any such evidence exists that there **can** be any sanction or penalty imposed upon one because of the exercise of constitutionally-protected Rights. [Sherar v. Cullen, 481 F. 2d 945.]
8. The Undersigned has seen no admissible evidence and denies any such evidence exists that the BAR licensed "officer of the court" and Registered Agent for CRC has subscribed the constitutionally-mandated oath of office to uphold the Constitution for the United States of America [Article VI, clause three; also: 4 U.S.C. § 101].
9. The Undersigned has seen no admissible evidence and denies any such evidence exists that the live agents of the putative Trustee **can violate** the Constitution for the United States of America with impunity.
10. The Undersigned has seen no admissible evidence and denies any such evidence exists that the agents (or assigns) for the original bankrupt lender, their successors (including DITEK, NEWREZ, MERS Inc. et al.), hereafter "lender" and "lenders agents" can produce any evidence to support the unsubstantiated claim that the original lender (DITEK) lent or advanced lawful United States money issued from their own accounts to the Undersigned to purchase the paper Title [ref: APN Number: [REDACTED]] known as [REDACTED], Nevada City, CA, UNITED STATES."
11. The Undersigned has seen no admissible evidence and denies any such evidence exists that the alleged Lender would suffer pecuniary loss from Undersigned not making any further payments on the alleged original loan.
12. The Undersigned has seen no admissible evidence and denies any such evidence exists that the original loan transaction from construction of the original PROMISSORY NOTE and DEED OF TRUST dated [date original promissory note was signed] and the signing and recording of the original Deed of Trust [MERS number (original loan number and m.i.n. #)] **was not** in its entirety a fraudulent scheme designed to make the Undersigned part with valuable consideration in exchange for nothing of value from the alleged lender.
13. The Undersigned has seen no admissible evidence and denies any such evidence exists that the original contract between the Undersigned and the original lender **was not** an unconscionable contract according to contract law and the common law, by **not** having evidence of thereby (i) "meeting of the minds" or full disclosure, (ii) there being "valuable consideration" being exchanged, and (iii) there was no "offer and acceptance" evidenced by both parties signing a "wet-ink" signature evidencing full commercial liability on their respective parts.

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14. The Undersigned has seen no admissible evidence and denies any such evidence exists that a party claiming a liability who cannot produce the original wet-ink signed promissory note together with the original Deed of Trust evidencing their security interest in the lien has any standing to sue in accord with the foundations of the common law.
15. The Undersigned has seen no admissible evidence and denies any such evidence exists that the alleged lender **did not** create the “credit” or “money” advanced on behalf of the Settlor / Borrower from the Settlor / Borrower’s own credit, credit application or from deposit of the promissory note signed by the Settlor / Borrower.
16. The Undersigned has seen no admissible evidence and denies any such evidence exists that the NOTICE OF TRUSTEES SALE **does not** state “NOTICE TO POTENTIAL BIDDERS: “If you are considering bidding on this **property lien**, you should understand that there are risks involved in bidding at a trustee auction. **You will be bidding on a lien, not on the property itself...**”.
17. The Undersigned has seen no admissible evidence and denies any such evidence exists that a person that buys a defective property lien created through fraud, has any right to the subject property.
18. The Undersigned has seen no admissible evidence and denies any such evidence exists that under the common law [Civil Code 22.2], the Right to a property **does not** go to whoever can demonstrate the superior Title to the actual Property.
19. The Undersigned has seen no admissible evidence and denies any such evidence exists that under the common law, a Land Patent **is not** a superior Title to the actual Property.
20. The Undersigned has seen no admissible evidence and denies any such evidence exists that the originating Bank, DITEK. Inc. (hereinafter “the Bank”) and or any assigns, hereafter known as the “Lender,” **created the alleged “money”**<sup>14</sup> purported as “loaned” to the Undersigned.
21. The Undersigned has seen no admissible evidence and denies any such evidence exists that the alleged “money” for the alleged “loan” came from the Bank’s valuable assets; and, as such the failure to re-pay the “money” loaned would create any potential for a loss of valuable assets to the Bank<sup>15</sup>

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<sup>14</sup> **MONEY:** In usual and ordinary acceptance, it means **gold, silver**, or paper money used as circulating medium of exchange and **does not embrace notes**, bonds, evidences of debt, or other personal or real estate. Lane v. Bailey, 280 Ky. 319, 133 S.W.2d 74, 79,81. [Black’s Law Dictionary, Fifth Edition, pg. 906]

<sup>15</sup> There are three common terms used to describe this privately created money. They are “credit,” “demand deposits” and “checkbook money.” In the Fifth edition of Black’s Law, pg. 331, under the term “Credit,” the term “Bank Credit” is described as: “Money bank owes or will lend individual or person.” In the book **I Bet You Thought, published by the privately-owned Federal Reserve Bank of New York**, as follows: “**Commercial banks create checkbook money whenever they grant a loan, simply by adding deposit dollars to accounts on their books to exchange for the borrower’s IOU....**”. “A national bank ...cannot lend its credit to another by

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22. The Undersigned has seen no admissible evidence and denies any such evidence exists that the Bank disclosed to borrower that Borrower's signature on the loan application and the promissory note allowed the Bank to create the "money" issued on the borrower/settlor's behalf to the "seller."
23. The Undersigned has seen no admissible evidence and denies any such evidence exists that the subsequent "money" created by monetizing the Borrower's credit application, the promissory note, and selling the promissory note **was** credited to the borrower's account with a "deposit slip" given to the depositor (borrower); and, the Bank disclosed the material facts to the Borrower detailing their acquisition of the "money" through monetizing the Borrower's promissory note.
24. The Undersigned has seen no admissible evidence and denies any such evidence exists that the Bank **was** acting in "good faith" with "clean hands" and the alleged "loan" documents were lawful binding contracts.
25. The Undersigned has seen no admissible evidence and denies any such evidence exists that there is a statute or law under the Constitution of the United States that allows for the creation of money by the Banks<sup>16</sup>.
26. The Undersigned has seen no admissible evidence and denies any such evidence exists that the duly-authorized agent for the Bank signed a wet-ink signature on the contract evidencing acceptance of the contract and a commercial liability on their part.
27. The Undersigned has seen no admissible evidence and denies any such evidence exists that the Lender or the Lender's duly-authorized agents have provided evidence that the wet-ink signed 'Promissory Note'<sup>17</sup>, and wet-ink signed 'Deed of Trust'<sup>18</sup> currently exist.

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**becoming surety, indorser, or guarantor for him, such an act is ultra vires...**" *Merchants' Bank v. Baird*, 160 F 642.

<sup>16</sup> United States Constitution Article 1, section(s) 8, &10

<sup>17</sup> "The Missouri court found that, because MERS was not the original holder of the promissory note and because the record contained no evidence that the original holder of the note authorized MERS to transfer the note, the language of the assignment purporting to transfer the promissory note was ineffective. "MERS never held the promissory note, thus its assignment of the deed of trust to OCWEN separate from the note had no force." 284 S.W.3d at 624; see also *In re Wilhelm*, 407 B.R. 392 (Bankr. D. Idaho 2009) (standard mortgage note language does not expressly or implicitly authorize MERS to transfer the note); *In re Vargas*, 396 B.R. 511, 517 (Bankr. C.D. Cal. 2008) ("[I]f FHM has transferred the note, MERS is no longer an authorized agent of the holder unless it has a separate agency contract with the new undisclosed principal. MERS presents no evidence as to who owns the note, or of any authorization to act on behalf of the present owner."); *Saxon Mortgage Services, Inc. v. Hillery*, 2008 WL 5170180 (N.D. Cal. 2008) (unpublished opinion) ([F]or there to be a valid assignment, there must be more than just assignment of the deed alone; the note must also be assigned. . . . MERS purportedly assigned both the deed of trust and the promissory note. . . . However, there is **no evidence of record that establishes that MERS either held the promissory note or was given the authority . . . to assign the note.**")." *LANDMARK NATIONAL BANK v. KESSLER*, (Kansas Supreme Court August 2009)

<sup>18</sup> "To show standing, then, in a foreclosure action, the plaintiff **must show** that it is **the holder of the note and the mortgage** at the time the complaint was filed. The foreclosure plaintiff must also show, at the time the foreclosure action is filed, that the holder of the note and mortgage is harmed, usually by not having received payments on the

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Failure to rebut the above claims point for point within twenty-eight (28) calendar days after receipt of this presentment will be tacit agreement and silent acquiescence that Respondents claiming to be acting as original lenders agents agree with all the stipulations above and to the fact that the original lender, Trustees, lenders agents, respondents et al., never had any lawful financial interest in the land and physical property commonly known as [REDACTED], Nevada City, California, the united states of America or in the fictional "Title" associated with the APN Number: [REDACTED] styled as: "[REDACTED] Nevada City, CA, UNITED STATES".

Your responses to these material facts are to be made under the penalties of perjury to be true, correct and materially complete. Inapposite responses will be regarded as the same as having not made any response.

**Acceptance**

With the Trustee Sale pending for May 22, A. D. 2024, time is of the essence for CRC to act.

The Undersigned is providing a reasonable time of twenty-eight (28) calendar days from the receipt of this Lawful Notice for the live individual claiming to be the duly-authorized Agent for CRC to respond. Failure to respond, **qui tacet consentire videtur** (he who remains silent is held to consent), is your confirmation that CRC, its officers and agents, accepts full responsibility for any violations of the unalienable Rights of the Undersigned.

**Without Prejudice - Without Recourse - all unalienable Rights  
guaranteed.**

**In witness whereof**, the Undersigned hereto sets their autograph and seal (right thumbprint) this eighteenth day of May, A. D. two-thousand and twenty-four; and, of the Independence of "**The United States of America**," the two hundred and forty-seventh year, under restricted signature, with all one's constitutionally-protected, birth-right Prerogatives, Immunities, natural and unalienable Rights reserved, all Remedies preserved, as well as all statutory rights which are secured by private international law, including the right to make final determination of all definitions and intent stated herein, in full harmony with public policy [Commercial Code §§ 1103(b), 1308, 3402(b)(1)].

Autograph: /s Paul-Edward: Gilbert

Seal

Paul-Edward: Gilbert, jura summa imperii<sup>19</sup>,  
authorized Signatory and sole Beneficiary of  
PAUL EDWARD GILBERT™© trust estate.

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note." **Examples:** United States District Court Southern District of Ohio, Western Division, at Dayton, In Re Foreclosure Cases Case Numbers 3:07CV043, 07CV049, et al. THOMAS M. ROSE (November 15, 2007)

<sup>19</sup> **Jura summa imperii** is Latin and means having rights of sovereignty or supreme power and authority over one's own dominions.

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## **Notice of Fault**

**From:** Paul-Edward: Gilbert, one of the People  
as authorized Signatory for:  
PAUL EDWARD GILBERT™©  
c/o 2036 Nevada City Highway #37 [95945]  
Grass Valley (45), California, U. S. of A.  
(non-domestic RFD, ZIP Code exempt)

**To:**

Casper Rankin, Esq. [S.B.C. #249196]  
d.b.a. as CASPER RANKIN, Esq.,  
Supervising Partner at Aldridge Pite, LLP  
888o Rio San Diego Drive, Suite 725  
San Diego, California [92108]  
[crankin@aldridgepite.com](mailto:crankin@aldridgepite.com)

Sent by Certified Mail with Return  
Receipt

9589 0710 5270 1467 0227 79

9590 9402 8439 3156 2397 22

**Cc:**

Tammy Laird, d.b.a. TAMMY LAIRD,  
chief executive officer  
Edward Jamir, d.b.a. EDWARD JAMIR,  
Chief Financial Officer  
Hamsa Uchi, d.b.a. HAMSA UCHI,  
corporate secretary  
All Officers, employees, agents,  
CLEAR RECON CORP.  
888o Rio San Diego Drive, Suite 725  
San Diego, California [92108]

9589 0710 5270 1467 0227 86

9590 9402 8439 3156 2397 39

Baron Silverstein, President  
NEWREZ LLC  
1100 Virginia Drive, Suite 125  
Fort Washington, Pennsylvania [19034]

9589 0710 5270 1467 0227 93

9590 9402 8439 3156 2397 46

My Record Identifier: NEWREZ d126357b

Your Reference Number: T.S. 112726-CA

**Regarding:** Public Records

Dated this eighth day of June A. D. 2024

## **Lawful Notification**

In accord with California Commercial Code § 1202 et. seq., you are now being given Notice that NEWREZ LLC (hereinafter "NR") and CLEAR RECON CORP (hereinafter "CRC") are violating the Constitution of the United States. The Undersigned has notified or given notice by using the USPS Mail tracking numbers listed above. By taking such steps as may be reasonably required to inform the other person in ordinary course, whether the other person actually comes to know of it. A person "receives" a notice or notification when: it comes to that person's attention. Notice to

**Notice to Principal is Notice to Agent, Notice to Agent is Notice to Principal;  
Applicable to all Successors, Assigns, and Agents:  
Silence, when there is a moral or legal Duty to respond, constitutes Fraud.**

Principal is Notice to Agent, Notice to Agent is Notice to Principal. The Undersigned has taken all reasonable administrative steps necessary to inform the principal in this commercial Matter. The doctrine of respondeat superior<sup>1</sup> controls this commercial Matter:

**Notice of Fault**

**Attention:** Casper Rankin, Esq. [S.B.C. #249196], Edward Jamir, Tammy Laird and all unnamed employees, officers of CLEAR RECON CORP., (hereafter Respondents) take notice.

In the letter dated the eighteenth of May, A. D. 2024, Casper John Rankin, Esq., was served a lawful request for a copy of his license to practice law<sup>2</sup>. If Casper John Rankin, Esq. has not yet responded, then this Notice is to give Casper John Rankin, Esq. an opportunity to cure that non-response.

Casper John Rankin, Esq., you have ten (10) business days to cure the non-response by; (i) Providing a copy of your license, or (ii) A letter providing the Undersigned an estimate of when you will be able to provide it, or (iii) That you are unable to locate any responsive records, or (iv) That you are refusing to provide it and by what authority you are concealing a public record.

Casper John Rankin, Esq., failure to provide your license is concealment [to conceal is one thing]. If you have it, you have no reason to deny its release, it is a public record. If you do not have it and chose to be silent [to be silent another], then you are engaged in a fraudulent misrepresentation and your silence is evidence of that **fraud**.

**Without Prejudice - Without Recourse - all unalienable Rights guaranteed.**

**In witness whereof**, the Undersigned hereto sets their autograph and seal (right thumbprint) this eighth day of June, A. D. two-thousand and twenty-four; and, of the Independence of "**The United States of America**," the two hundred and forty-seventh year, under restricted signature, with all one's constitutionally-protected, birth-right Prerogatives, Immunities, natural and unalienable Rights reserved, all Remedies preserved, as well as all statutory rights which are secured by private international law, including the right to make final determination of all definitions and intent stated herein, in full harmony with public policy [Commercial Code §§ 1103(b), 1308, 3402(b)(1)].

Autograph: \_\_\_\_\_ Seal  
Paul-Edward: Gilbert, jura summa imperii<sup>3</sup>,  
authorized Signatory and sole Beneficiary of:  
PAUL EDWARD GILBERT™© estate trust

<sup>1</sup> "Let the principal answer." [4 Co. Inst. 114; 2 Bouv. Inst. n. 1337; 4 Bouv. Inst. n. 3586. John Bouvier's Law Dictionary Sixth Edition (A. D. 1856)]

<sup>2</sup> [Business and Professions Code § 6067]

<sup>3</sup> **Jura summa imperii** is Latin and means having rights of sovereignty or supreme power and authority over one's own dominions.



BA20241290446



**STATE OF CALIFORNIA**  
*Office of the Secretary of State*  
**STATEMENT OF INFORMATION**  
**CORPORATION**

California Secretary of State  
1500 11th Street  
Sacramento, California 95814  
(916) 657-5448

For Office Use Only

**-FILED-**

File No.: BA20241290446

Date Filed: 7/12/2024

## Entity Details

Corporation Name CLEAR RECON CORP  
Entity No. 3521772  
Formed In CALIFORNIA

## Street Address of Principal Office of Corporation

Principal Address 3333 CAMINO DEL RIO SOUTH  
SUITE 225  
SAN DIEGO, CA 92108

## Mailing Address of Corporation

Mailing Address 3333 CAMINO DEL RIO SOUTH  
SUITE 225  
SAN DIEGO, CA 92108  
Attention Arianna Black

## Street Address of California Office of Corporation

Street Address of California Office 3333 CAMINO DEL RIO SOUTH  
SUITE 225  
SAN DIEGO, CA 92108

## Officers

Officer Name	Officer Address	Position(s)
+ Tammy J Laird	3333 CAMINO DEL RIO SOUTH SUITE 225 SAN DIEGO, CA 92108	Chief Executive Officer
+ Hamsa Uchi	3333 CAMINO DEL RIO SOUTH SUITE 225 SAN DIEGO, CA 92108	Secretary
+ Edward Jamir	3333 CAMINO DEL RIO SOUTH SUITE 225 SAN DIEGO, CA 92108	Chief Financial Officer

## Additional Officers

Officer Name	Officer Address	Position	Stated Position
None Entered			

## Directors

Director Name	Director Address
+ Tammy J Laird	3333 CAMINO DEL RIO SOUTH SUITE 225 SAN DIEGO, CA 92108

The number of vacancies on Board of Directors is: 0

## Agent for Service of Process

Agent Name CASPER RANKIN

B2883-5948 07/12/2024 1:18 PM Received by California Secretary of State

2 of 10 Page C - Annex Document

Agent Address	3333 CAMINO DEL RIO SOUTH SUITE 225 SAN DIEGO, CA 92108
Type of Business Type of Business	ENTITY WILL ACT AS TRUSTEE
Email Notifications Opt-in Email Notifications	Yes, I opt-in to receive entity notifications via email.
Labor Judgment	No Officer or Director of this Corporation has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.
Electronic Signature	<input checked="" type="checkbox"/> By signing, I affirm that the information herein is true and correct and that I am authorized by California law to sign.  <div><div>Tammy J Laird</div><div>Signature</div></div> <div><div>07/12/2024</div><div>Date</div></div>



Paul-Edward: Gilbert, one of the People  
in propria persona  
c/o 2036 Nevada City Highway #28  
Grass Valley (45), California [near: 95945]  
[crc4e7b4732@sendittomyemail.com](mailto:crc4e7b4732@sendittomyemail.com)

United States District Court for the Eastern District of California  
Sacramento California

Paul-Edward: Gilbert,  
Plaintiff,

v.

Clear Recon Corp;  
Tammy Laird, Chief Executive Officer, and  
Edward Jamir, Chief Financial Officer, and  
Hamsa Uchi, Corporate Secretary, and  
Monica Chavez, Agent; in their capacity as officers  
and agents of Clear Recon Corp and in their  
personal capacity;  
Aldridge Pite, LLP;  
Steven Pite Esq., in his capacity as Senior Partner  
in Aldridge Pite. LLP;  
Casper Rankin, Esq., in his capacity as Supervising  
Partner in Aldridge Pite. LLP;  
Casper Rankin, Esq., in his capacity as Registered  
Agent for Clear Recon Corp.;  
Casper Rankin, Esq., in his personal capacity;  
NewRez LLC;  
Baron Silverstein, in his capacity as President of  
NewRez LLC;  
Shellpoint Mortgage Servicing, a subsidiary of  
NewRez LLC;  
Does 1 – 25,  
Defendants,

And

Citibank, N. A.  
Party of Interest,  
but not a Defendant

Case No.

**Legal Citations and Authorities in  
Support of Claim of**

**Constitutional Trespass**

Judge:

Courtroom:

Date:

Time:

Paul-Edward: Gilbert, Plaintiff

v.

Clear Recon et. al., Defendant

Case No.

Page **1** of **6**

Legal Citations and Authorities in Support of Claim of Constitutional Trespass

## Legal Citations and Authorities

### Legal Citations and Authorities

This section provides a comprehensive list of all legal citations referenced in this matter, organized for easy reference.

#### Federal Cases:

1. **Mullane v. Central Hanover Bank & Trust Co.**, 339 U.S. 306 (1950)
2. **Haines v. Kerner** 404 U.S. 519 (1972)
3. **Anastassoff v. United States** 223 F.3d 898 (8th Cir. 2000)
4. **Platsky v. CIA** 953 F.2d 26 (2d Cir. 1991)
5. **Granfinanciera, S.A. v. Nordberg**, 492 U.S. 33 (1989)
6. **Beacon Theatres, Inc. v. Westover**, 359 U.S. 500 (1959)

#### California Supreme Court Cases:

1. **Rowland v. Christian**, 69 Cal.2d 108 (1968)
2. **Burgess v. Superior Court**, 2 Cal.4th 1064 (1992)
3. **Yvanova v. New Century Mortgage Corp.**, 62 Cal.4th 919 (2016)
4. **Meyer v. Sprint Spectrum L.P.**, 45 Cal.4th 634 (2009)

#### California Court of Appeal Cases:

1. **Estate of Gump**, 1 Cal.App.4th 582 (1991)
2. **Lectrodryer v. SeoulBank**, 77 Cal.App.4th 723 (2000)
3. **Ghirardo v. Antonioli**, 14 Cal.4th 39 (1996)
4. **Garcia v. Federal National Mortgage Association**, 183 Cal.App.4th 1031 (2010)
5. **Hatch v. Collins** 225 Cal.App.3d 1104 (1990)

#### Key California Statutes:

1. **California Civil Code § 4** (Common Law)

Paul-Edward: Gilbert, Plaintiff

v.

Case No.

Page 2 of 6

Clear Recon et. al., Defendant

Legal Citations and Authorities in Support of Claim of Constitutional Trespass

2. **California Civil Code § 6** (Preservation of Rights)

3. **California Civil Code § 2920 et. seq.** (Mortgages)

### **Maxims of Jurisprudence**

#### **Definition of Maxims**

Maxims are established principles or propositions of law that are universally recognized for their fairness and justice. These legal truths serve as foundational guidelines in the interpretation and application of the law. They are often cited in legal arguments to reinforce the principles of equity, justice, and good conscience. In the context of this document, these maxims are relied upon to illuminate the underlying principles that should govern the legal issues at hand.

#### **California Evidence Code § 451(f)**

Under California Evidence Code § 451(f), the courts are required to take judicial notice of "[f]acts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute." Although the term "maxim" is not explicitly mentioned, this provision essentially describes maxims as those principles that are so well-established in law and equity that their validity is unquestionable.

#### **Rule 201(b) Judicial Notice of Adjudicative Facts**

A judicially noticed fact must be one not subject to reasonable dispute because it:

1. Is generally known within the trial court's territorial jurisdiction; or
2. Can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

### **List of Maxims**

1. **"The law has been obeyed."**

- Referenced in California Civil Code § 3548, emphasizing the importance of adherence to the law in all legal matters.

2. **"Justice delayed is justice denied."**

- Underscores the importance of timely justice, particularly relevant to the Plaintiff's assertion of wrongful foreclosure and due process violations.

3. **"He who comes into equity must come with clean hands."**

- A foundational principle of equity, arguing that the Defendants, having engaged in wrongful acts, cannot seek equitable relief or defenses.

4. **"The burden of proof lies on him who asserts the fact, not on him who denies it."**

- Applied in the context of foreclosure, asserting that the Defendants have the burden to prove the legality of their actions.

5. **"No one is above the law."**

- A fundamental legal maxim asserting that the Defendants, including corporations and their officers, must be held accountable for unlawful actions.

6. **"Fraud vitiates everything."**

- Critical in cases involving allegations of fraud, asserting that any action or judgment tainted by fraud is null and void.

7. **"Equity regards as done that which ought to be done."**

- Used to argue that the Defendants should have acted in accordance with legal and ethical obligations, and their failure to do so warrants equitable remedies.

8. **"The safety of the people shall be the highest law."**

- Referenced in the context of upholding constitutional rights and protections, particularly against unlawful foreclosure practices.

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- Used to counter any defense that the Defendants may raise regarding a lack of knowledge about the legal requirements governing foreclosure.

**11. "The law does not require the impossible."**

12. "Equity will not suffer a wrong to be without a remedy."

13. **"Justice is the constant and perpetual will to allot to every man his due."**

14. "No one can take advantage of his own wrong."

15. 46d "Where the law prescribes a form, the nonobservance of it is fatal to the proceeding, and the whole becomes a nullity."

- ## Certification

1 I, Paul-Edward: Gilbert, the Plaintiff in the above-captioned matter, do hereby certify  
2 under penalty of perjury and in accordance with the laws of the United States of America, that  
3 the statements and information provided herein are true, correct, and made with honesty and  
4 integrity. I affirm there is no intent to deceive, mislead, or provide false information, and that  
5 this complaint is presented in the spirit of truth and justice, fully aligned with the principles of  
6 common law.

7 **Dated:** August 2, A. D. 2024

8 **Autograph:** Paul E. Gilbert

9 Paul-Edward: Gilbert



Paul-Edward: Gilbert, one of the People  
in propria persona  
c/o 2036 Nevada City Highway #28  
Grass Valley (45), California [near: 95945]  
[crc4e7b4732@sendittomyemail.com](mailto:crc4e7b4732@sendittomyemail.com)

United States District Court for the Eastern District of California  
Sacramento California

Paul-Edward: Gilbert,  
Plaintiff,

v.

Clear Recon Corp;  
Tammy Laird, Chief Executive Officer, and  
Edward Jamir, Chief Financial Officer, and  
Hamsa Uchi, Corporate Secretary, in their capacity  
as officers of Clear Recon Corp and in their  
personal capacity;  
NewRez LLC;  
Baron Silverstein, in his capacity as President of  
NewRez LLC;  
Shellpoint Mortgage Servicing, a subsidiary of  
NewRez LLC;  
Aldridge Pite, LLP;  
Casper Rankin, Esq., in his capacity as Supervising  
Partner in Aldridge Pite. LLP;  
Casper Rankin, Esq., in his capacity as Registered  
Agent for Clear Recon Corp.;  
Casper Rankin, Esq., in his personal capacity;  
Does 1 – 25,  
Defendants,

And

Citibank, N. A.  
Party of Interest,  
but not a Defendant

Case No.

**Declaratory Relief  
in Support of Claim of  
Constitutional Trespass**

Judge:

Courtroom:

Date:

Time:

1           **Summary:**

2           The Plaintiff seeks declaratory relief to clarify the legal rights and obligations of all  
3 parties involved in the foreclosure, particularly concerning the violation of the Plaintiff's right to  
4 a trial by jury as guaranteed by the Seventh Amendment. This cause of action asserts that a  
5 judicial declaration is necessary to confirm that the Plaintiff's constitutional right was  
6 disregarded during the foreclosure process, rendering the foreclosure unconstitutional and void.

7           **Detailed Analysis:**

8           **1. Purpose of Declaratory Relief:**

- 9           ○ Declaratory relief is a legal remedy that allows a court to make a binding  
10 determination of the rights, duties, or obligations of parties involved in a legal  
11 dispute. In this case, the relief sought is to confirm the Plaintiff's Seventh  
12 Amendment right to a trial by jury in the context of the foreclosure process. The  
13 Plaintiff contends that the Defendants proceeded with a non-judicial foreclosure  
14 without affording the Plaintiff this constitutional right, creating uncertainty and  
15 controversy over the validity of the foreclosure.

16          **2. Necessity for Declaratory Relief:**

- 17          ○ Declaratory relief is necessary to resolve the legal controversy regarding the  
18 Plaintiff's Seventh Amendment rights. The foreclosure was conducted in a  
19 manner that bypassed the Plaintiff's right to a trial by jury, a right guaranteed by  
20 the Seventh Amendment for civil cases involving significant property interests.  
21 The Plaintiff's protest, grounded in the Seventh Amendment, was ignored by the  
22 Defendants, who continued the foreclosure without judicial oversight. A judicial  
23 declaration is needed to affirm that the foreclosure was unconstitutional and to  
24 protect the Plaintiff's rights.



1       **3. Issues Requiring Declaratory Relief:**

- 2           ○ **Seventh Amendment Violation:** The court should declare whether the
- 3           Plaintiff's Seventh Amendment right to a trial by jury was violated by the non-
- 4           judicial foreclosure process.
- 5           ○ **Validity of the Foreclosure:** The court should declare whether the foreclosure,
- 6           conducted without a trial by jury, was valid or void due to the violation of
- 7           constitutional rights.
- 8           ○ **Legal Rights of the Plaintiff:** The court should clarify that the Plaintiff has an
- 9           unalienable right to a trial by jury, particularly in cases involving the loss of
- 10          significant property, and that this right cannot be bypassed by statutory
- 11          provisions enabling non-judicial foreclosure.

12       **4. Judicial Notice & Legal Maxims:**

- 13          ○ The Mandatory Judicial Notice requires the court to uphold the Seventh
- 14          Amendment right to a trial by jury as a fundamental constitutional protection.
- 15          The maxim "Ubi jus ibi remedium" (Where there is a right, there is a remedy)
- 16          applies here, reinforcing the need for the court to provide a remedy for the
- 17          violation of the Plaintiff's Seventh Amendment rights.

18       **5. Case Law Support:**

- 19          ○ *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33 (1989): Reaffirms the importance
- 20          of the Seventh Amendment right to a trial by jury in civil cases involving legal
- 21          and equitable claims.
- 22          ○ *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500 (1959): Emphasizes that the
- 23          Seventh Amendment preserves the right to a jury trial in cases where legal rights
- 24          are at issue, particularly in disputes involving property.

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I, Paul-Edward: Gilbert, the Plaintiff in the above-captioned matter, do hereby certify under penalty of perjury and in accordance with the laws of the United States of America, that the statements and information provided herein are true, correct, and made with honesty and integrity. I affirm there is no intent to deceive, mislead, or provide false information, and that this complaint is presented in the spirit of truth and justice, fully aligned with the principles of common law.

**Dated:**

ph: Paul E. S.